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THE PLAINTIFF'S APPEAL AT THE FIRST TRIAL BY JURY

TRIAL by Jury is a Teutonic institution, originating with the races—Teuton, Goth, Scandinavian, and “Anglo-Saxon”—which subjugated Celtic and Latin Europe. In its primitive form, it is illustrated most clearly by the proceedings of the “Alding,” or great summer open-air court of the Scandinavian settlers of Iceland, to which the relatives of every slain man appeared for blood, or “bloodgelt,” from his slayer.—*World's Best Orations.*

CLASSICS OF THE BAR

STORIES OF THE WORLD'S GREAT JURY
TRIALS AND A COMPILATION OF
FORENSIC MASTERPIECES

BY

ALVIN V. SELLERS



BAXLEY, GA.
CLASSIC PUBLISHING CO.

1909



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ALVIN V. SELLERS



THE TROW PRESS, NEW YORK

Dedicated

TO THOSE MEMBERS OF THE
BAR WHO HAVE FELT IN THEIR HEARTS
THE THRILL AND THE JOY OF
LIFTING FROM A PRISON CELL TO LOVING ARMS
SOME MOTHER'S DARLING

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Foreword

THE Temple of Justice is a temple of tragedy. It is a temple where happiness often yields to despair and smiles of joy are changed to tears of grief. We see there every phase of human society, every attribute of human life, every form of human character. There are bosoms where gleam fierce flames of vice and crime and bosoms fragrant with violet vales of truth where the goddess Virtue sits enthroned. We see eyes wet with tears of penitence, hear piteous sobs of regret and words of pardon soft and sweet. We hear savage cries for vengeance there, and see wrapped with precious robes of purity hearts that lovingly forgive. There lurk the demons of revenge with dripping sword in hand, while hovering near may be ever seen divine angels of mercy and justice. Beyond the gathering clouds of gloom is seen the trembling star of hope. There are hearts upon which fall the shadows of night and hearts crowned with the splendors of imperial day. We see dreadful pictures drawn and painted upon scarlet brows of shame, and we see the throne of honor there and the scepter held by lofty manhood's king. The thorns of hatred mingle with

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the roses of love. There are crimson stains upon garments of guilt and pearls of sweat that crown the brows of honest men.

The orator is there with a spontaneous outburst of a passionate soul appealing to the reason and emotion of man for the vindication of law and innocence and the triumph of truth and justice.

The oratory of the bar is, for the most part, necessarily extemporaneous. Not prepared in advance and seldom reported stenographically, many of the courtroom classics have been lost to the world. And yet, from the dawn of history, the forensic orator has held the world captive at his will—spellbound under the magnetic influence of a master mind. Ah, how often has he of honest, loyal heart, brilliant intellect, intense passion, fervid imagination, and fluent voice held and swayed the minds and hearts of men!

Fortunately, not all of the masterpieces of the bar have been lost. Some manuscript yet is here and some notes have been preserved. Providence has not been unkind. Fate has not yet decreed that the hand of destruction should touch them all. Finding the ones that have been saved has been my joyous task. It has been no easy one, but it has not been a labor of pain. It has proven interesting, instructive, fascinating.

The introductions to the forensic addresses found in this volume are not lengthy. Although the trials were tragic events in the lives of more than one—crises where

Foreword

hope and fear battled for the mastery of the life in peril or the heart in agony—stories of mere detail might prove uninteresting and unwelcome. I have tried to draw in brief the circumstances that gave interest to each trial, and all the while have had an abiding thought that the reader would realize and feel the inspiration that lifted the orator to heights majestic and sublime.

I cherish the hope that within the bosoms of those who view the book with a critic's eye may throb forgiving hearts of charity—each heart a throne where queenly Mercy gently reigns and holds within her royal hand the olive branch of peace.

ALVIN V. SELLERS.

BAXLEY, GA., 1909.

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These publishers have been very generous and kind, and it is my pleasure to voice the sentiments that I feel—sentiments of thanks, gratitude, and best wishes.

A. V. S.

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The Tilton-Beecher Trial

THE trial of the damage suit of Theodore Tilton *versus* Henry Ward Beecher which came on for hearing in the City Court of Brooklyn, New York, many years ago, was, owing to the prominence of Mr. Beecher and the nature of the charge against him, a historic trial. One of the counsel engaged in the case remarked that it would loom larger in history than any other trial that had taken place in eighteen centuries.

Henry Ward Beecher was pastor of Plymouth Church, Brooklyn, and was recognized as one of the world's greatest pulpit orators.

Theodore Tilton charged that Mr. Beecher had betrayed his confidence and violated the hospitalities of his home—that he had lured his wife from the path of virtue and fidelity to her husband. Mr. Beecher was, indeed, a man of charming influence and attractive personality. He denied, however, the allegations of Mr. Tilton. Thousands of people attended the trial each day. A number of prominent lawyers were en-

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gaged in the case, and weeks were consumed in the delivery of the arguments alone. The closing remarks of Benjamin F. Tracy for the defendant and of William A. Beach for the plaintiff will always appeal to lovers of forensic eloquence.

Mr. Tracy's Conclusion

IN the discharge of my duty, I have laid before you, gentlemen, so much of this case as, to the best of my ability, I could put into words. But the deepest truth that underlies it is beyond adequate expression by feeble words of mine; nor, I think, could any single tongue set forth the nature and the power of that influence, which radiates throughout the world and time, and beyond the grave, from the glowing center of a good man's life. There are facts which are not spoken from lip to ear, but from heart to heart. There is a treasure at stake, in comparison with which even the good name of one innocent man and one innocent woman, however sacred and precious this may be, is of trivial worth; I mean the principle of the value of established character. What is the use of an honorable life if it is no barrier against false accusation; if, in the face of foul conspiracy, its prayers and labors, generosities and heroisms, are to be counted as worse than nothing—merely the disguises of hypocrisy?

Against this most dangerous infidelity of our time one grand protest has been made. Three thousand men

The Tilton-Beecher Trial

and women of Plymouth Church have presented to this community a spectacle unparalleled of faith in goodness and in God. These people are your fellow-citizens, gentlemen; virtuous, industrious, practical, sensible as yourselves. They love their wives and daughters; they cherish the purity of their households. Foremost among you in every work of charity, earnest, sincere, good friends, good neighbors, good citizens, they stand and have stood through many months unshaken in their confidence around the pastor whom they love. And this they do because they know him—because for thirty years they have looked through his clear eyes into his transparent soul—because his influence upon them and their children has been pure and wholesome—because he has taught them from lips that repeated the words of the Master and by a life that reflected the example of the Master to fear God and to abhor evil. This multitude of witnesses bears testimony to the value of a good man's character as read in a good man's life. And it is the lesson of the value of character which you, gentlemen, are called to impress upon the world. It will be seen that although this city contained men vile enough to assail with perjured lips the spotless reputation of our noblest citizen, there were also found in it those whose firm faith in him could not be shaken by ingenious lies, and a jury of honest, just, and fearless men to stand like a rock against the tide of slander.

You will save Brooklyn, already too much disgraced by the existence of such a scandal, from the far greater disgrace of permitting such a man to be destroyed by

such instrumentality—an eagle towering in his pride of place, hawked and killed by mousing owls! You will tell the American people that when innocence is assailed by unscrupulous and cunning malice, however successful for a time the assault may seem, it must find its barrier when it reaches an American jury. And you will say to this heartless and ungodly persecution: “Thus far shalt thou come, but no farther—here all the midnight plottings of cruel craft must cease forever.”

I ask of you for this defendant nothing but that justice which you would mete out to the humblest citizen; yet you cannot but feel, as I do, an overwhelming sense of the solemn importance of this trial. It will loom larger in history than any which has taken place for eighteen centuries. No man of this defendant's fame has ever been called upon to answer such a charge in a court of justice. What a spectacle has been presented in this city of churches! Every day for eight weeks this aged man, who has been a large and various contributor to the literature of the English tongue, and who never wrote a word that was not inspired by the love of God, of nature, and of his fellow-men; who has swayed with sublimest eloquence greater multitudes than any living orator, and who never spoke save for justice, truth, and virtue; who has convinced, rescued, instructed, and comforted unnumbered thousands of erring, struggling, suffering souls, counting his own life, fortune, and reputation as nothing, if by their risk or sacrifice he could serve the humble and the weak; this man whose fame encircles the earth, and whose name

The Tilton-Beecher Trial

is honored and beloved wherever Christianity bears sway, has been dragged by malignant conspirators into this court to answer the vile and odious charge, which all the evidence of a lifetime outside of these walls, no less than the evidence produced within them, brands indelibly as a lie. Day by day he has passed along our streets with his brave and true wife, to meet the unmerited indignity of this arraignment. Strong men have been touched with mingled pity and wrath at the sight, and women have turned aside to weep. It is an outrage which posterity will avenge. This fair city will yet boast among her proudest monuments the statue of him who conferred upon her such glory, and received within her gates such torture. All who had part in this crowning drama of his life will be remembered with execration or with praise—those who falsely accused, those who weakly doubted, those cowards who forsook him, those who were swift to believe evil, on the one side; and, on the other, those who steadfastly trusted, and those, gentlemen of the jury, who justly judged.

Yes, gentlemen, by the judgment which you here pronounce, you will yourselves be judged at the tribunal of after ages. What you do here will never die. When these scenes shall have passed away; when he who presides over this trial shall rest in the silent chambers of the dead; when the seats you occupy shall be filled by your children, or your children's children, strangers from distant climes will come to view the place from which was given back to the world, freed from cloud or passing shadow, the name of Henry Ward

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Beecher. Even when centuries shall have rolled away, when these marble walls shall have crumbled and decayed, this trial will be remembered with undiminished interest. More eloquent than the words of this defendant, more inspiring than his deeds of magnanimity, more powerful among men than the story of all his life of usefulness and virtue, will be the recital of his serene faith and patience under dire affliction and deadly assault. Heroes are admired; it is the martyrs who are beloved. Not the triumphal procession and the loud hosanna, but the cup, the thorn crown, the cross, the sepulcher, conquered the world; and since the hour of the Divine Sufferer no follower of Christ has borne the cross in vain.

Gentlemen, do you believe in God? Then you will recognize to-day what the generations to come will so clearly see; what the Day of Revelation will blaze forth in letters of immortal light—the mark of God's approval upon this, His faithful, upright, suffering servant, whom He hath hitherto guided, sustained, illumined, blessed; whom, in the hour of tribulation, He hath not forsaken; and whom, by all the truth of His eternal promise and all the resources of His almighty power, He will surely rescue and reward; for “though hand join in hand, the wicked shall not be unpunished, but the seed of the righteous shall be delivered.”

The Tilton-Beecher Trial

Closing Remarks of Mr. Beach

THE attempt has been made, upon the part of both of my learned friends, to represent Mr. Tilton as entertaining the most bitter and malignant feelings toward Mr. Beecher; and yet, whenever he is found speaking of him in the revelations of this evidence, he has given him, justly, a high and distinguished character. I do not mean to say, gentlemen of the jury, that Theodore Tilton loves Henry Ward Beecher, or that he did love him an instant after that July in 1870 when his wife made to him her confession. I think it supernatural that a human being can be conscious of the fact that another man has seduced the body of his wife or of his child and feel no emotions of anger and no longing thirst for revenge. You Christians may condemn it, if you please; the lessons of the Scripture and the example of the Master may teach us better; but unless it be in the depravity and demoralization of the lowest sinks of vice and life, the heart beats not that can receive this blow without bounding with angry impetuosity. I know Theodore Tilton harbored these feelings, and I grant you that at times when he saw, or thought he saw, that they could be gratified without injury to his wife and his home, they broke out with resistless violence. If they had not, I would be ashamed to stand here as his representative and advocate, and that, to me, makes his example of self-denial, his earnest and

faithful forgiveness of his wife, his Christian and manly charity toward Mr. Beecher—to me this consideration makes this exhibition of his character most noble and exalted. The man who has the power of overcoming passions like these and resentment like this, must have some principle of righteousness and justice within him to strengthen his will and subdue his passions. Talk about the unfriendliness and the hate of Theodore Tilton toward Henry Ward Beecher! Why, if it be true that Mr. Beecher, the chosen and the invited guest of his friend's house, who was directed there by the husband in times of his absence, the glory of his presence being the light of that household—if it be true that Henry Ward Beecher debauched its mistress and stained its hearthstone with the violence of his lust, why, is there a husband or a father on earth who will wonder that Theodore Tilton should feel indignation? “Oh!” says my friend, “this suit is for revenge.” No! Not all that you can do, not all that the broad jurisdiction of this court can do, will satisfy the longings of that revenge. It is an imperishable feeling, and will be an unsatisfied feeling so long as the tempter and the seducer of the wife breathes the same air with the living husband. I do not seek to convince you, gentlemen, that Theodore Tilton has not the feelings of a man, and the resentment and the passion of a man; but with all this infirmity, this resistless temptation, he yet, strengthened by his love for his wife and his children, and upheld by the grace of his God and the belief in his name, has withheld and stayed his hand so long as mortal

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heart could bear and hold back the arm destined to work out justice and truth. . . .

My argument, gentlemen, is finished. All these disagreeable topics have passed, and I am rejoiced that I am relieved, I hope forever, from them; but please suffer me a few words in conclusion. We have communed together a long time upon great themes, lifting us above the littleness of common controversy. They are associated with the highest interests of humanity. They affect the civilization of the age. Truth, morality, religion, divine and human law, all the great topics which stir the enthusiasm of our nature, have mingled with our deliberations. It is impossible that we should not feel something of their purifying inspiration. The selfish and petty struggles of ordinary life often trammel and debase our thought, chaining our souls to mercenary calculation and sordid desire.

If anything can exalt us to a higher spirituality, to a nobler conception of truth and duty, it is a scene like this, so full of dignified interest and weighty responsibility. We must rise to this great occasion or we belittle ourselves and dishonor our own nature. Most sensibly have I felt my inability worthily to meet the duty of my position, and struggle with the perplexities of this wide debate, in the face of adversaries so cunning of defense, so powerful and skilled as my eminent friends. But the race is not always to the swift nor the battle to the strong. The sling of the shepherd very often vanquishes the might of the giant. Weakness is strong in the energy of truth. I have no faith in my own skill,

but I have abiding hope in the supreme justice which governs the world, marking the sparrow as it falls. On the great seal of your city is engraved the noble motto, "Right makes might," and on any day of public celebration it shines upon the flag which is flung out from the dome of your City Hall. It is the sentiment which encourages and strengthens weakness in its contests with arrogant strength. It is the sentiment which has sustained my client in all the difficulties and discouragements of this contest, and it will sustain and eventually, I trust, redeem him, because it bears the promise of Him whose words shall never fail. Wearied and worn with this trial, gentlemen, I shall part from you with respectful regret. Our long association, bringing us into daily intimacy, impresses me with kindly sympathies and interest for each of you. We have stood together before this community animated by a common object, seeking after the right in honest sincerity. The distempered plea of turbulent passions has been against the altar at which we serve. The boisterous interests and sympathies of an interested people have tried the firm foundation of this temple, but the spirit of justice sees nothing of the tumult, hears nothing of the uproar. Calm and confident, she leans trustingly upon a juror's oath. Your consciences uphold the shaking temple and the tottering altar. If they weaken and fall, if the strong pillars of honesty and truth give way, temple and altar and God sink to a common ruin. The struggle this day is between the law and a great character and a great church. If the latter triumph, and the law is trodden

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down, woe unto him who calls evil good and good evil.

May it please your Honor, it needs not that I should express the common sentiment of my associates and myself, as we recall the intelligent dignity and fearless learning with which you have guided us through the tangled mazes of this trial. You can receive no nobler tribute than that offered by our adversaries. Contesting every position with animated zeal, and sprinkling this record with objections, they acknowledge with inimitable candor the entire accuracy of your numerous decisions. Your Honor, therefore, has the gratification to know that you have worked no injustice to this defendant. Sir, I indulge the hope that the friendly regard with which you have honored me, like my own warm respect for yourself, will be deepened by the remembrance of these toilsome but pleasant days.

I cannot part, sir, with this occasion without acknowledging my obligations to my noble and tried associates. If any merit has attended my efforts, it is due to their sagacity and wise promptings. Posting me in the front of this battle, they have yet stood its true leaders and champions. It has been a regret and a loss that unavoidable circumstances have withdrawn my very learned and accomplished friend, Mr. Pryor, so much from our side. If he has not struck so many blows in the field, he has, nevertheless, been the wisdom of our cabinet. Deeply are we all indebted, and especially myself, to his ready and large learning and judicious counsel.

You will credit me, sir, when I again declare that the

duty I have performed has been most unwelcome and painful. I have not spoken aught in malice. I leave this case without the slightest asperity of feeling toward any, filled with unaffected admiration for the transcendent qualities and generous courtesies of my distinguished antagonists. No man venerates more profoundly than myself the magnificent genius of this defendant. His large contributions to the literature of the times excite the sentiment of which Macaulay spoke in his essay on the life of Bacon. Rich as he is in mental endowments, prodigal as his labors have been, they can shelter no offense against the law.

Genius as lofty, learning more rare and profound, could not save Bacon. He sinned and fell. Upon his memory history has written the epitaph: "The greatest and the meanest of mankind." Toward great men in disgrace, like those who fall, Whittier, New England's gifted poet, writes in his poem entitled "Ichabod":

So fallen! so lost! the light withdrawn
Which once he wore!
The glory from his gray hairs gone
Forevermore!

Reville him not—the Tempter hath
A snare for all,
And pitying tears, not scorn and wrath,
Befit his fall!

O, dumb be passion's stormy rage,
When he who might
Have lifted up and led his age
Falls back in night!

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Scorn! would the angels laugh to mark
A bright soul driven,
Fiend-goaded, down the endless dark,
From hope and heaven!

Let not the land once proud of him
Insult him now,
Nor brand with deeper shame his dim,
Dishonored brow.

But let its humbled sons instead,
From sea to lake,
A long lament, as for the dead,
In sadness make.

Of all we loved and honored, naught
Save power remains—
A fallen angel's pride of thought,
Still strong in chains.

All else is gone; from those great eyes
The soul has fled;
When faith is lost, when honor dies,
The man is dead!

Then, pay the reverence of old days
To his dead fame;
Walk backward, with averted gaze,
And hide the shame!

Gentlemen, I commit this case to you in the sublime language of the great orator who speaks to you from his grave at Marshfield:

With conscience satisfied with the discharge of duty, no consequences can harm you. There is no evil that we

cannot either face or fly from but the consciousness of duty disregarded. A sense of duty pursues us ever. It is omnipresent, like the Deity. If we take to ourselves the wings of the morning and dwell in the uttermost parts of the earth, duty performed or duty violated is still with us for our happiness or misery, and if we say darkness shall cover us, in darkness as in the light our obligations are yet with us. We cannot escape their power nor fly from their presence. They are with us in this life, will be with us at its close, and in that inconceivable solemnity which lies yet farther onward we shall still find ourselves surrounded by the consciousness of duty, to pain us wherever it has been violated, and to console us so far as God may have given us grace to perform it.

The jury could not agree on a verdict. The case was never tried again.

The Trial of Dr. Brown

ONE October day many years ago there disappeared from her home in New York Miss Clementina Anderson, the twenty-year-old daughter of James Anderson, sexton and undertaker. Three weeks later, while her father, desolate and grief-stricken, was sitting in his home, two strangers brought his daughter into the room and laid her upon the sofa. In a wild moment of happiness and joy the father rushed into an adjoining room and at once returned. The daughter was dead. After a thorough investigation by the proper authorities, Dr. E. M. Brown, a prominent physician of New York, was charged with causing the death of Miss Anderson. Henry L. Clinton, Esq., of the New York bar, was retained as counsel for Dr. Brown. Augustus L. Simms, a young man about twenty-six years of age, had visited Miss Anderson as a suitor for two years, and they were at one time engaged to be married. Mr. Clinton contended that Simms had won the heart of Clementina Anderson and that she became a victim of his perfidy. He contended that Dr. Brown was innocent and that a verdict of

guilty would only gladden the heart of Simms. Mr. Clinton's argument was a terrific arraignment of Simms and a dramatic appeal for the acquittal of Dr. Brown.

Mr. Clinton's Argument

IN opening this case, the district attorney most truly said that it presented a simple and sad story. A more thrilling and heartrending tale of woe I have never heard. On the evening of November 19th, last, a man, advanced in years, who had grown gray in well-doing, sat by his family hearth, around which, but a few short weeks before, had gathered, with the rest of his household, the partner of his bosom and his eldest son, both of whom had since entered the realms of eternity.

The heart of the old man is wrung with anguish; the furrows of age have become deeper, and his hair has grown whiter within these few weeks. He who, for a lifetime, had dealt gently with everybody, finds that Time, whose hand ere this had ever touched him tenderly as a lover's, is now handling him roughly. The sunshine which had illumined his pathway through life is changed to darkness. The old man is sorely troubled; sorrow encompasses him; evil has befallen him. The family circle which enfolded his existence is broken. Most of the links in the golden chain of his domestic happiness are no more. His pet child has left her father's roof, and gone—he knows not whither. Long

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weeks of suspense, of anxiety, of mental torture have intervened. Ah, long indeed! long have been the dreary days and sorrowing nights he has awaited her return. Oh, how like Jacob of old he wrestled in prayer for her safety! He hoped, he feared, he prayed, he despaired! He sought and he shunned the protection of the public authorities. He longed to be informed; he dreaded to know her fate. During sleepless nights, as he tossed upon his couch of misery, he strained his mental vision to pierce futurity; he prayed that the future might be veiled from his view. He had an agony of desire to clear up the mystery; he trembled with dismay lest the truth might break in upon him. There sat the old man on that cold and cheerless night in November last.

Suddenly the ring of the bell announces the advent of—he knows not whom. A female form borne by strangers greets his vision. It is his long-lost daughter. He thanks God she is back alive. His heart bounds with delight; his mind, which thus far had remained firm, resting on the solid foundations of Christian faith, now totters with joy. In his confusion he plunges into an adjoining room. He cannot stay; he must return and gaze upon his child. He does return; he looks again. O God! she is dead! *dead!!*

It was a dreadful moment; not the tears,
The lingering, lasting misery of years,
Could match that minute's anguish; all the worst
Of sorrow's elements in that dark burst
Broke o'er his soul, and with one crash of fate
Laid the whole hopes of his life desolate.

What a picture of woe! The family altar in ruins! The *seducer* has wrapped the domestic temple in the flames of everlasting infamy! Simms, not content with having done his worst to destroy the soul of his victim, has assassinated her memory! He not only plucked from the diadem of her pure character the priceless jewel, virtue, but now that she is dead, and her mother is in eternity—a mother who, if living, with God's truth would brand on his forehead, in letters of glowing fire, the words "Liar! Defiler of the Ashes of the Dead!"—yes, now that the voice alike of mother and daughter is hushed in the cold and silent grave, he revels in the fond recollection of the triumphs of his lechery, and, in effect, proclaims his victim a willing wanton.

It would smoothe the passage to the grave of that good old man, James Anderson, to believe—to have the world believe—that his daughter was not intrinsically bad; that it was in an unguarded moment she yielded to the blandishments of her destroyer. But Simms would strip him of this last vestige of consolation, and set him adrift upon an ocean "of tideless, waveless, sailless, shoreless woe."

God pity that poor old man! Simms, by the damning offense of seduction, robbed James Anderson of his daughter. Your duty to the law, to your consciences, to your oaths, is to see to it that Simms, with heart steeped in gall, with lips blistering with falsehood—rank, foul, and God-defying falsehood—yes, your duty to your consciences is to see to it that this vile seducer, this moral leper, this imp of hell, shall not, through your

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instrumentality, in violation of law and evidence, rob the daughters of this defendant of a father!

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Since November last the old man at your bar has been hunted down as though he were a wild beast, to be exterminated from the face of the earth. The hounds of persecution have been upon his track—even that vilest of hounds, Simms, whose company any respectable dog would shun as you would shun famine and pestilence—yes, the hound Simms, combining, as he does, the ferocity of the bloodhound with the sneaking malignity of the hyena, is let loose upon the “old man *innocent*.” Yes, verily the hounds of persecution have been upon his track; the public huntsmen have egged them on in the race, until, with blasted prospects, broken health, and bleeding heart, clad in the armor of innocence, he has been driven—no, not driven, he has fled—for protection to the Temple of Justice. He is here at her holiest altar. You are her ministers, her high priests. In the name of law, in the name of a common humanity, as you hope for mercy at that dread day when the archangel shall sound the last trump and the graves shall yield up their dead, I adjure you, deal fairly with that old man! Pierce him not with the sword of persecution! With pen dipped in the gall of prejudice, write not “Felon” on his brow! He comes not before you loaded with the seducer’s guilt. He never, by the outward form of honorable courtship, won the heart of a pure, innocent, and guileless girl, only to

add one more to the long list of victims of his demoniac lust! *He* is not the seducer of Clementina Anderson! Let not the unparalleled persecution of an innocent man divert your attention, your burning indignation, your unutterable loathing, your never-ending execrations from the author of her seduction—the hell-branded architect of her ruin!

Great God! what must have been the emotions of that poor girl after the fell seducer had compassed her ruin! Weary of life and fearful of death! As she contemplated the loss of all which endeared her to life—the indelible stain upon her hitherto pure character, the loss of friends, the finger of scorn ever to be pointed at her, the dreary waste of existence; sometimes tempted to revolve in her mind the fearful crime of suicide—I can almost fancy I hear her exclaim, in the language of one of England's favorite bards:

“Shall I kill myself?

What help in that? I cannot kill my sin,

If soul be soul; nor can I kill my shame.

No, nor by living can I live it down;

The days will grow to weeks, the weeks to months,

The months will add themselves and make the years,

.

And mine will ever be a name of scorn.”

What emotions crowd the mind and surcharge the heart as we contemplate the part performed by Simms, a willing instrument of the monarch of hell, in casting

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the pall of death over virtue—the vital godliness of the female character. The only asylum which bade her welcome was the grave. Could Simms have seen the humble coffin containing her lifeless remains as it sank into the cold earth, and could but a glimmering ray of the light of conscience have pierced the dark portals of his soul, who could have portrayed the remorse that would have encircled his existence and enshrouded his future? Even now, cast upon the sea of life, secure as he fancies himself in his ice-bound indifference, devoid to all appearance of the instincts of humanity, let him beware; for the time will come when conscience will overtake him, and Almighty God will remind him of the enormity, the gigantic turpitude, of his conduct, as in his uprisings and downsittings, at all times, in all places, under all circumstances, he will behold indelibly stamped on his existence, as though in characters of blood emblazoned on canvas and thrown across the sky, the words “Seducer! Destroyer of Innocence! Murderer of Family Peace!”

Hereafter, as he seeks to hide from his crime behind the ever-shifting scenes of life; as he endeavors to drown conscience, perchance in the intoxicating bowl; as he essays to change one pursuit for another, to fly from place to place, in the vain hope that he may no longer behold the emaciated form, the hollow cheek, the sunken eyes—with their glare of death—of his victim, he will be ready to exclaim, with his great prototype—the prince of darkness—as drawn by the almost inspired bard:

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“Which way shall I fly?

Which way I fly is hell; myself am hell;
And, in the lowest deep, a lower deep,
Still threat’ning to devour me, opens wide,
To which the hell I suffer seems a heaven.”

Gentlemen of the jury, I appeal to you as the guardian angels of domestic purity! Suffer not the records of this court to be defiled with a verdict of guilty, which, properly understood, can only gladden the heart of the fiendish wretch who has done his worst to write “Wanton” on the tombstone of Clementina Anderson.

Gentlemen, while, with moistened eye and bleeding heart, you commiserate the sad fate of *her* father, forget not that my client is an old man. He has motherless daughters dependent on him for protection and support. As the ivy clings to the oak, so the tendrils of affection are wound around the heart of *that* old man. Humanity, Justice, Law, with unmistakable voice, call upon you to restore to the defendant’s daughters their kind, fond old father.

Dr. Brown was convicted of manslaughter in the fourth degree—the lowest grade of homicide known to the law.

The Haywood Trial

ON the night of December 30, 1905, ex-Governor Frank Steunenberg, of Idaho, was killed by the explosion of a bomb which had been placed at his yard gate. Some time after this occurrence, one Harry Orchard confessed to the commission of the crime, and implicated, among others, in an alleged conspiracy, William D. Haywood, Secretary of the Western Federation of Miners. Orchard, also, at this time, professed a conversion to Christianity.

The trial of Haywood, charged with being a member of a band of conspirators which brought about the death of ex-Governor Steunenberg, took place in the summer of 1907 at Boise, Idaho. The trial lasted nearly two months, and much interest was manifested throughout the world. Distinguished counsel appeared for the prosecution and the defense. The principal arguments were made by Mr. Clarence Darrow, of Chicago, for the defendant, and Senator W. E. Borah, of Idaho, for the State. Their arguments were masterful presentations of the entire case, and their closing periods were appeals of surpassing eloquence.

Mr. Darrow's Closing Remarks

GENTLEMEN, I sometimes think I am dreaming in this case. I sometimes wonder whether, here in Idaho or anywhere in this country, broad and free, a man can be placed on trial and lawyers seriously ask to take away the life of a human being upon the testimony of Harry Orchard. Lawyers come here and ask you upon the word of that sort of a man to send this man to the gallows; to make his wife a widow and his children orphans. For God's sake, what sort of an honesty exists up here in the State of Idaho that sane men should ask it? Need I come here from Chicago to defend the honor of your State? A juror who would take away the life of a human being upon testimony like that would place a stain upon the State of his birth—a stain which all the waters of the great seas could never wash away; and yet they ask it. You had better let a thousand men go unwhipped of justice, you had better let all the criminals that come to Idaho escape scot-free than to have it said that twelve men of Idaho would take away the life of a human being upon testimony like that.

If a man may commit every crime known to man; if he may be a perjurer, a thief, a bigamist, a burglar, a murderer; if he may kill man after man, and then, when he is caught with the blood dripping from his fingers, if he can turn to you and say, "You told me to do it; I was down to your house last night, in your parlor, and

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you told me to plunge the dagger into that man's heart"; if twelve jurors can turn from that assassin, with his hands dripping with blood, and swear it upon you and take your life, it is the fiercest game that was ever put up in the American Republic, and that is what is asked here. . . .

Who is this fellow Orchard? Take his own story. A man who was bred to cheat and to lie; a man who, as a young man, in the first blush of his manhood, gave his soul to Christ. I don't know about these second conversions—whether they are more solid than the first or not. He was a member of the church. He was superintendent of the Sunday school. He was a Christian Endeavorer. He isn't endeavoring any more; he has got there. That was when he was a young man. But that didn't help him then. Maybe he has religion for keeps this time. If I were the Governor, and thought he had, I would kill him quickly, before he got a chance to get over it, and then make sure of his soul. I don't think Harry ought to trust himself. But he had it before and he commenced to cheat and to steal and to burn down his own cheese factory to get the insurance money; and he must have made a false affidavit in order to get it. It shows that he could lie under oath, too, at that time. He ran away with his neighbor's wife—left his wife and little child without a penny, and they did not hear of him until recently. He went out into the world—not to work—oh, no, not for Harry. He knew a better game than that and he commenced a better game still. He came West to grow up with the country.

He never did a courageous thing in his life; not one. If his story is true, he was with a thousand men when he touched off the fuse at the Bunker Hill mill. If his story is true, he sneaked through the dark passages of the mine and fixed a box of powder when he blew up the Vindicator. If his story is true, he sneaked back in the darkness and put the box of powder under the station and ran away in the night when he killed fourteen men. If his story is true, he laid a bomb at Goddard's gate that he might open it and be killed. If his story is true, he met a man coming out of a saloon, drunken, at midnight, and killed him without a chance or a word or an act. If he has told the truth, he sneaked up the back stairs and poured arsenic or strychnine in milk to poison a man and his wife and little babe. If his story is true, he planted a bomb outside of Bradley's door to kill, not Bradley, but the first human being who might happen to open that door. If his story is true, he went up in the night and laid a bomb at Steunenberg's gate, and then he ran back in the darkness and had nearly reached the hotel before Steunenberg was dead. Will you show me the act that was not the act of a sneaking, craven coward in this man's life? Will you show me where he has ever met bravely man or beast? Has he ever taken a chance in his miserable life? Has he ever met a foeman where that foeman had a chance to shoot or a chance to strike? Has he ever gone into a court of justice and stood his ground? And yet you are asked to believe him. You are asked to give him immunity and every one of his kind. You

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are asked to say to the old and to the young: "You may kill, you may burn, you may lie, you may steal, you may commit any crime forbidden by God or man, and then you can turn and throw your crimes on some one else and your sins on God, and the lawyers will sing your praises." All right, gentlemen. If, in your judgment, public policy demands it, go ahead and do it. Don't stop for a little matter like Bill Haywood's neck. . . .

Shifty Harry meets McParland. He has lived a life of crime and has been taken in his deeds, and what does he do? Why, he saves his soul by throwing the burden on Jesus, and he saves his life by dumping it on to Moyer, Haywood, and Pettibone. And you twelve men are asked to set your seal of approval on it and to make that contract good, so that it may go out to every youth in the land. . . .

Now, gentlemen, like Brother Hawley and Brother Richardson and Senator Borah, I, too, have a profound regard for religion. Mine may be the broader. I don't want to say to these twelve men that I think the Christian religion is the only religion that the world has ever known. I don't believe it for a moment. I have the greatest respect for any religion or any code of ethics that does anything to help man, whatever that religion may be. And for the poor black man who looks into the black face of a wooden idol and prays to that idol to make him a better man and a stronger man, I have the profoundest respect. I know that there is in him, when he addresses his prayers to his wooden

idol, the same holy sentiment and the same feeling that there is in the breast of a Christian when he raises his prayer to the Christian's God. It is all one. It is all a piece of ethics and a higher life, and no man could have more respect for it than I have. In the ways of the world and in the language of the world I am not a professed Christian. I do not pretend to be. I have had my doubts about things which to other men's minds seem plain. I look out on the great universe around me, at the millions and millions of stars that dot the firmament of heaven in the nighttime; I look out on all the mysteries of nature and the mysteries of life, and I ask myself the solution of the riddle, and I bow my head in the presence of the infinite mystery and say: "I don't know." I cannot tell. But for that man who understands it all and sees in it the work of a Supreme Being, who prays to what he honestly believes to be this Higher Power, I have the profoundest regard; and any communion of that poor, weak mortal with that Higher Power, which permeates the universe and which makes for good, any communion that lifts a man higher and higher and makes him better, I have regard for that. If Orchard has that religion, well and good. I am willing that he should have it; I hope that he has it. I wouldn't deny that consolation and that solace to him for a moment. But I ask you whether he has it and what it means to him. I have no desire to injure Orchard, despicable as I think he is. I have no desire to take his life. I am not responsible for his being. I cannot understand the purposes of

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the infinite God who fashioned his head as He saw fit to fashion it. I am willing to leave it to Him to judge—to Him who alone knows. I have never asked for a human being's life, and I hope that I may never ask for a human life, to the end of my days. I do not ask for his. If the time should ever come when somebody pronounced against him the decree of death and nobody else would ask to save his life, my petition would be there to save it. I don't believe in man's tinkering with the work of God. I don't believe in man's taking away the life of his fellow-man. I don't believe that you and I can say in the light of heaven that, if we had been born as he was born, if our brains had been molded as his was molded, if we had been surrounded as he has been surrounded, we might not have been like him.

It is not for me to pass condemnation upon Harry Orchard, but simply to discuss his evidence and to discuss him as he and his evidence affect this case. Let us see whether he is changed. I do believe that there is something in the heart of man which, if rightly appealed to, may make him better. But I do not believe in miracles. I don't believe you could change in a minute a man's very nature. I don't believe it was ever done or ever can be done. You can't take Harry Orchard's face or his form and make it over again in a second, and you can't take his crooked brain and his crooked, dwarfed soul and make it anew in a minute. If you, gentlemen, are going to bank on that in this case, then you are taking a serious responsibility with

Haywood's life. I might have a little more confidence in this if Orchard had not confessed to the Pinkertons before confessing to the Savior. You might have a little more confidence in this if he had not sought to save his life before he turned to save his soul.

One may be higher, better, further developed than another; but deep in the heart of the primitive man is that religious instinct which makes him look up to some Higher Power, and he wonders about the mystery of his being, the mysteries of life, and the mysteries of the great universe around him. He forms his prayer; and prayers, whether they are to the same God or not, whether the same name or not and the same substance or not, I have faith to believe that, if they are the honest and sincere expressions of the soul, they reach the same God at last. Hawley doesn't know half as much about religion as I do. If he knew anything whatever about religion, he never would tell twelve men that something could be sprinkled upon the head of Orchard and his nature would change in the twinkling of an eye.

Let us see, gentlemen, what Orchard has got, and then we can tell whether or not it is religion. There are certain qualities which are primal with religion. I undertake to say, gentlemen, that if Orchard has religion now, I hope I may never get it. I want to say to this jury that before Orchard got religion he was bad enough, but it remained for religion to make him totally depraved. I am measuring my words and I am going to show it to this jury so plainly that I believe nobody can doubt it. I say that there was some spark of

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honor and integrity and manhood about that depraved man before he got religion, but that after he went into McParland's hands he became totally depraved. What does religion mean? It means love; it means charity; it means kindness; it means forgiveness to a man whose life has been covered with slime and filth. If he has got religion, it ought to be kindness and charity and forgiveness to other men whose lives are like his. Would you have any confidence in religion if it didn't mean that? Would you have any confidence in a man's religion if he was as cruel, as heartless, as he was before? Take Orchard. He was acquainted with Moyer, Haywood, and Pettibone. He had worked himself into the confidence of Pettibone; had been invited to his house; had met his wife; had eaten at his table; had slept in his bed; was his friend. I ask you who watched him, who saw this monster on the witness stand, whether there was the least look of pity, the least sign of regret, the least feeling of sorrow, when he sought to hand over this man and his friends to execution? Did he look any different? Was there any different gleam in his eye or different cast in his countenance, or a single flutter of his iron nerve that wasn't there when he met a reeling, staggering, drunken man and shot him three times before he could raise his hand? If there is any pity in his soul, if there is any of the heavenly mercy, if there is any of the Christ-like forgiveness there, it hasn't gone out to Pettibone.

Again, gentlemen, I repeat that until Harry Orchard had confessed and had been forgiven by Father McPar-

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land, he had some spark of manhood in his breast. Listen. There have been other great criminals in this world. Our penitentiaries are full of criminals whose names are unknown. Men have mounted the scaffold, they have fallen through the trapdoor, they have been strangled to death, their bodies have been eaten by quicklime inside of the prison walls, and they have protected their names. Their names were the only sacred things left to the criminals. Look at Orchard. Who is he? He left Ontario a young man. His record was bad. It wasn't infamously bad. His name was not Harry Orchard; his name was Albert Horsely when he left. He went to Detroit with another man's wife. When he reached Detroit his name was Harry Orchard. He lied, he stole, he burglarized, he committed arson, and became a murderer, and his name was Harry Orchard. His best friend never knew any name but that. The name of Horsely was buried deep in this criminal's heart, and he protected it as the one thing that bound him back to his childhood days. He wasn't totally depraved—he protected his name. He had gone away from Ontario; had taken the name of Orchard and had covered it with infamy and slime, but he had left the Horsely name comparatively pure in the little Ontario town. This is the picture of Harry Orchard that comes to me. You may picture him a saint if you want to, or if you can; and if you can, you may take away the life of a fellow-being on his testimony, and I will say to you as the judge does to the condemned murderer: "May God have mercy on your soul." You may pic-

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ture him as you think he should be pictured. But here is this man; here is a little rural town off in Canada; here is a country graveyard with a white fence around it and a church by its side. Here are two old-fashioned Quaker people who read their Bible and who love their God, and who live in the sight and in the fear of God, a quiet, peaceful, honest life, rearing their children and hoping that they will follow in the footsteps of that Quaker couple. They die, are buried in that old graveyard in the country town; the names on the marble headstone are never heard of beyond the limits of the little town where they lived and where they died; but they lived an honest, upright life; and, when it was done, they laid their burdens down to sleep the peaceful sleep of the just, and their names were honored and respected. They bore two sons and six daughters. One son went out into the world. He married; a child came. Temptation overcame him. He left his wife to toil for herself. He left his child and baby girl, unprotected and unaided, to grow up alone without a dollar or a penny or a father's love; he went out into the world and covered himself with mud and dirt and crime until he was revolting in the sight of God and man. The brother stayed at home, a quiet, peaceful, honest man, having children to bear the Horsely name to generations yet unborn. The sisters married. They had children in whose veins flowed the Horsely blood. They are quiet, honest, peaceful citizens. The little girl, growing up neglected, uncared for, has been struggling alone until she is nine years old. The Horsely

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name is all she has. The honor of the grandfather and the grandmother sleeping in their Quaker graves is all she has. She has nothing from her deserting father. Suddenly there comes back a story that the monumental criminal of the ages is Albert Horsely; that this man who went out from this quiet town covered himself with crime and with infamy; and every neighbor who goes through that quiet churchyard can point to the graves of this old Quaker couple, and say, "There lies the father and the mother of the greatest criminal of modern times"; and the world can point to the brother and the sisters, living and toiling as best they can with the burden of the world upon them, and say, "There is the brother, there are the sisters, of that monster who has challenged the civilized world with his iniquities and his crimes"; and the nieces and the nephews can be pointed at, and the deserted wife, and, above all, the little girl—flesh of his flesh and blood of his blood. Gentlemen, I want to know what any of you think of this miserable wretch who blighted the life of this deserted girl to save his miserable neck? Am I still crazy? Are the men of Idaho different from other men? Does not the same sort of blood flow through your veins as flows through the veins of all men who ever lived? Can anybody look upon this act with anything but horror? Think of that girl! Gentlemen, every act of this villain's life pales into insignificance compared to the crime committed against that child. The blowing up of the Independence depot was a sacrament compared to the running of that poisoned dagger into the heart of

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his nine-year-old babe, a dagger that couldn't kill, but would fester and corrode and leave its pain and sting, and leave the fingers of the world pointed at her and the voice of the world raised against her as long as her offspring should remain upon the earth.

Why did he do it? You know why he did it. He had protected this one thing through all his crimes; and, until he spoke his name upon the witness stand, nobody knew it except that "inner circle" to whom he had confided it. He had kept it through all his crimes and through all his wanderings, and the character of his dead father, the name of his brother and sisters and the helpless babe, and the honor of his wife—these at least were unassailed. It was left for McParland to help him commit the crowning infamy of his infamous career. Why did he do it? Not to give glory or luster to his family name. No, not for glory, not for honor. He did it, gentlemen of the jury, because the miserable, contemptible Pinkerton detective had persuaded him that his story would gain more credit with the jury if he gave his real name; because McParland had persuaded him that if he would give his name, it would help to tie the rope around Haywood's neck.

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Gentlemen, there are many things that I would like to say, but I have not the strength and voice to say them. Perhaps it is lucky for you that I have not, and that I must leave the case here. Under the laws of Idaho the State has the last word, and when my voice is silent, and when Moyer and Haywood cannot speak,

their accusers can be heard pleading against them. I know the ability of the eminent gentleman who will close this case. I know the appeal he will make to this jury. I know that he will talk of law and order and the flag which the mine owners have described time and again. I know the suspicious circumstances which will be woven into that appeal and handled by a tactful tongue and a skillful brain, and I must sit still and listen to it without chance to reply. I can only ask you, gentlemen of the jury, to weigh with care and consideration every word that is uttered, to answer when I cannot answer, if there are any facts and any circumstances which will justify an answer. I ask you to remember that you are to explain every fact and circumstance in this case consistent with this man's innocence, if you can. I shall ask you to try, and if you try it will not be difficult, for there is nothing in this case but Orchard. Orchard, an unspeakable scoundrel; Orchard, a perjured villain; Orchard, the biggest coward on record; Orchard, shifting the burdens of his sins upon these men to save his life.

If you men can kill my client on his testimony, then peace be with you. Mr. Hawley has told you that he believes in his case, that he would not ask you to convict unless he believed Haywood was guilty. I tell you I believe in my case. I believe in it as I believe in my very life, and my belief does not count and his belief does not count for anything. I am not an unprejudiced witness in this case. Nobody knows it better than I. My mind is not unbiased in this great

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struggle. I am a partisan, a strong partisan. For thirty years I have been working to the best of my ability in the cause in which these men have given their toil and risked their lives. For thirty years I have given the best ability that God has given me. I have given my time, my reputation, my chances, to the cause of the poor. I may have been unwise. I may have been extravagant in my statements. But this cause has been the strongest devotion of my life, and I want to say to you that never in my life did I feel about a case as I feel about this. Never in my life did I wish anything as I wish this verdict of this jury, and if I live to be a hundred years old, never again in my life will I feel that I am pleading a case like this. Never will this jury be called upon to pass upon another case fraught with such momentous questions as this. You are jurors in a historical case. You are here with your verdict to make history—history that will affect the nation for weal or woe, that will affect every man that toils, that will affect the liberties of mankind for the poor and the weak, who have been striving all through the centuries for some measure of that freedom which the world has always denied to them.

Gentlemen of the jury, this responsibility is upon you, and if I have done my part, I am glad to shift it upon your shoulders and be relieved of the load. I have known Haywood well and I believe in him. God knows it would be a sore day to me if he should ascend the scaffold. The sun would not shine and the birds would not sing on that day for me. I would think of

him, I would think of his wife, of his mother; I would think of his babes; I would think of the great cause that he represents. But, gentlemen, he and his mother and his wife and his children are not my chief concern in this case. If you should decree that he must die, ten thousand men will work down in the mines and send a portion of the proceeds of their labor to take care of that widow and those orphan children, and a million people throughout the length and breadth of the civilized world will send their messages of kindness and good cheer to comfort them in their bereavement. It is not for them I plead. Other men have died in the same cause in which Haywood has risked his life. Men strong with devotion, men who love liberty, men who love their fellow-man, have raised their voices in defense of the poor, in defense of justice, have made their good fight and have met death on the scaffold, in the wreck, in the flame; and they will meet it again until the world grows old and gray. Haywood is no better than the rest. He can die if need be. He can die if this jury decrees it.

But, oh, gentlemen, don't think for a minute that if you hang him you will crucify the labor movement of the world. Don't think that you will kill the hopes and the aspirations and the desires of the weak and the poor. You men, you people, who are anxious for his blood, are you so blind as to believe that liberty will die when he is dead? Do you think there are no other brave hearts and no other strong arms, no other devoted souls, who will risk their lives in that great cause which

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has demanded martyrs in every age of the world? There are others, and these others will come to take his place. They will come to carry the banner where he could not carry it.

Gentlemen, it is not for him alone that I speak. I speak for the poor, for the weak, for the weary, for men who, in darkness and despair, have done the labors of the human race. The eyes of the world are upon you—upon you twelve men of Idaho to-night. Wherever the English language is spoken, wherever any foreign tongue known to the civilized world is spoken, men are talking and wondering and dreaming about the verdict of these twelve men that I see before me now.

If you kill him, your act will be applauded by many; if you should decree Haywood's death, in the great railroad offices of our great cities men will sing your praises. If you decree his death, among the spiders of Wall Street will go up pæans of praise for those twelve good men and true who killed Bill Haywood.

In almost every bank in the world, where men wish to get rid of agitators and disturbers, where men put in prison one who fights for the poor and against the accursed system upon which they live and grow fat, from all these you will receive blessings and praise that you have killed him.

But if you free him, there are still those who will reverently bow their heads and thank these twelve men for the character they have saved. Out on our broad prairies, where men toil with their hands; out on the broad ocean, where men are sailing the ships; through

our mills and factories; down deep under the earth, thousands of men, of women, of children, men who labor, men who suffer, women and children weary with care and toil, these men and these women and these children will kneel to-night and ask their God to guide your judgment. These men and these women and these little children, the poor and the weak and the suffering of the world, will stretch out their hands to this jury and implore you to save Haywood's life.

Senator Borah's Conclusion

GENTLEMEN, we are not fighting organized labor. We are not fighting the weak and the poor. Neither are we here to consent that organized labor shall be a shield to crime. Neither are we willing that a man in any station of life shall take life with impunity. This is not a fight on organized labor, it is simply a trial for murder. Frank Steunenberg has been murdered and we want to know. An awful crime has been committed and the integrity and manhood of Idaho want to know. An offense which startled the civilized world was committed within our borders, and unless we had earnestly and determinedly endeavored to know the author, we would be unfit to be called a commonwealth among the sisterhood of commonwealths of this Union. That earnest men determined to act, and found evidence which led them to go farther and investigate, does not mean a fight upon organized

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labor. It does not mean, as my eloquent friend says, industrial warfare. It does not mean class against class, faction of society against faction. It does not mean the rich against the poor, the poor against the rich. It means law, justice, and fairness, and the verdict of this jury will be in accordance with those principles, whether it be freedom or conviction. . . .

Gentlemen, one great question in this case is, has Harry Orchard told the truth? Much has been said here in mockery and derision of Orchard's profession of religion. I suspect it does not greatly matter to you so far as this case is concerned whether he has or has not accepted the teachings of Christianity. I suspect that you will accept or reject his testimony in accordance with the rules which ordinarily obtain in courts of law; that you will measure its worth in proportion as it is corroborated by other testimony, in proportion as it commands the judgment and convinces the minds of reasonable men. But notwithstanding this, I want to call your attention to the fact that this question of his religion or nonreligion was not a matter which the State imposed upon this jury in any way, shape, or form. They say it was got up by Mr. McParland for its effect upon the jury and to brace him up as a witness before you. You know that there was no intimation made of such a thing by the State upon its direct examination. It was not flaunted before you nor paraded here by any act of the State, but Mr. Richardson saw fit, having been informed, it appears, by a former member of the Western Federation of Miners—

that is, according to his statement—to show that he had accepted the teachings of Christianity.

Mr. Darrow testified in this connection with reference to his religious views. He was generous enough to give us a discourse on religion, incident to a discussion of the evidence in this case. I hardly think he is an expert on the subject. Neither am I, so I will venture a suggestion, assuming that we will likely be considered by this jury of equal moment as witnesses. His statement recalls an experience which was mine when a small boy. I was reared by Presbyterian parents. The religious strain of Calvin was present in our household. About the time I arrived at the age when every boy knows just how the world was made and how man accidentally arrived upon earth, I secured from some source a little volume of Colonel Ingersoll's. It was the "Mistakes of Moses." I was perfectly fascinated with the story. I soon found out that this man of whom I had heard so much at family prayers was a worse man than Darrow's Orchard. He had killed an Egyptian and hidden him in the sand. He had done a great many other things unnecessary to mention here. I was perfectly fascinated with the story. I was so glad to find these saints were human. One day, while sitting under a tree reading when I ought to have been pulling weeds out of the corn, father came along and asked what I was reading. I closed the book, and being in a rather close place, like Pettibone, I concluded I would keep still, so I answered not. Father, thinking that my silence under such circumstances was an admission of

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guilt, reached over, took possession of the book, and I never read any more out of that volume. Some other things happened which it is also unnecessary to mention. I went my way disconsolate. I had no Ingersoll, and the intellectual heavens were without a star. Finally, I secured the life of Napoleon Bonaparte and read it. I came to the conclusion that Napoleon was a greater man than Ingersoll—the greatest genius in war or statesmanship that ever lived. I came to the history of his Egyptian campaign. I read how he took with him on that trip from Paris a number of philosophers, savants from the salons of Paris—learned men, wise men—men who were teaching in that day, as some would vainly teach now, that there is nothing higher or more divine than the impulses and emotions of the human heart, nothing greater or more godlike than the human intellect; men who taught that there was no difference, as my eloquent friend now says, between the unlettered barbarian muttering his unmeaning words at the foot of a black idol and the jubilant soul looking up to the God on Calvary, asking for guidance and direction. I read how, one night, these philosophers sat upon the deck of the ship and discussed in their puny way the mistakes of the Infinite, how they finally concluded there was no such thing as religion, no God, nothing higher than man. At last they turned to Napoleon for an opinion, who, pointing to the firmament above, said: "Tell me who made that firmament and I will then discuss this matter with you." This was a revelation to me. Skepticism and agnosticism were

things of the past. And I say to you to-night that I am not a religionist, neither am I a hypocrite, but it is too late in this, the morning of the twentieth century, to write upon the divine brow of the One who died on Calvary "Impostor"; too late to write above that bowed head "False Prophet." While some may not know, millions do know, that their Redeemer liveth. It is too late to argue against the teachings of Him who said: "This day thou shalt be with me in paradise."

Orchard may not have religion. I do not know; but I do know that twenty centuries of Christian civilization, I do know that thousands and thousands of the best men and women who ever walked upon this earth tell us and teach us that there is a Divine Power which can reform men's brains, reform and make better men's hearts, which can give the power to do that which they did not have the courage to do before. Even Orchard's story, then, is not so strange. After all, nothing could be more natural, more in harmony with the never-finished story of crime, than the very thing Orchard tells you took place. In our strength and pride we are given over to mockery and derision; in the hour of success we are blasphemers and declare, as the fool declared, that there is no God. But in the hour we are cast down it is altogether different. In the night of despair, when the stars of hope are dead, every sinner of us, the bravest and the frailest, turns at last to that old book which our mothers loved. It is the only book on earth when we are face to face with the trouble which human aid cannot alleviate. When some great

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sorrow presses us to earth and we are locked in with our own sufferings, how quickly memory carries us back over the years and we are landed again at the old homestead. In the twilight sits a saintly form, bent and gray, and on her lap rests the book—it is mother and her Bible. There is the picture; memory will never lose it; it is the anchor of the moral world. Every shipwrecked mariner upon the ocean of life prays at last to anchor there—all the mockery and blasphemy and scorn of atheism cannot cloud its beauty. God never intended it should be destroyed. He never intended man should become vile enough and fiendish enough to wholly forget its divine influence. And if Orchard, poor, miserable wretch, his hands red with the blood of more than a score of innocent men, his soul steeped in the very fumes of hell—if he saw that picture and was drawn to it again, he simply saw what every criminal sees when he stands looking out from behind the prison bars at the near end of life. Oh, I learned long ago not to mock at any man's religion. It is at last a secret between himself and his God.

But, says Mr. Darrow, he is now playing the greatest game he ever played in his life; he is playing the life of Mr. Haywood for his own; and his testimony is untrustworthy for that reason. Gentlemen of the jury, I do not know what you will do with Mr. Haywood; I do not know what your verdict will be in this case; no man will know until it is rendered in this court room. You may return him to the city of Denver; you may turn him loose to go back to the State of Colorado to

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take his place at the head of this great organization. But the man who planted the bomb at Frank Steunenberg's gate and comes into this court and swears to it will pay the forfeit of his crime. They talk of promises. We are not asking for vicarious atonements. Fighting Haywood for Harry Orchard? Trading in blood? You may turn *him* loose, but you will never get twelve men in the State of Idaho who will turn *Harry Orchard* loose, and you will never find a man in this State who will, as Governor, turn him loose. And I trust that if ever I compromise with the man who planted that bomb at Steunenberg's gate, the great God will wither my right arm. The man who intimates that I would compromise with Harry Orchard does not understand the kind of blood that circulates in my body. He does not know the love I bore the dead. . . .

I am going to read at this time from the magazine called the *Western Federation of Miners Magazine*:

Farewell Steunenberg once Governor of Idaho! your political career is ended. You have done everything within your power to send the men who made you Governor to the penitentiary, and, worse than all, you stand before the world a convicted perjurer before a congressional investigating committee. But your cheek has long since lost the blush of shame, and your damnable deeds will never appeal to your manhood, for such you never possessed.

How insignificant the feeling of Harry Orchard, his Hercules mine forfeiture and keeping alive the passions of hatred, compared with this unforgiving, unforgetting,

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unrelenting hatred of the officials of this organization against Frank Steunenberg! And why? Simply because he could not conceive it to be his duty as Governor to sit still and see a thousand men go into a neighboring town armed and masked, destroy property and commit murder. He might have erred in the manner in which he undertook to take care of the State's right, but he was called into action, and he did his duty nobly as he understood it. He acted according to the lights which were before him, and there is no question that these men who opposed such things understood that Frank Steunenberg was in unrelenting opposition to their methods. No wonder, as Orchard says, they said to him: "Kill him, kill him, not alone for what he has done; kill him that these men in Colorado and elsewhere who oppose the Western Federation of Miners may know that we do not forget and that they are living a living death." Hatred! Corroboration! Motive! How could there be more conclusive proof of all these things?

I read again:

Your sole ambition was money, which in your estimation was superior to honor; but you are gone, and upon your political tombstone shall be inscribed in indelible words: "Here lies a hireling and a traitor."

Why? Why traitor? Did he desert the State? Did he violate his oath? No. He went to the Cœur d'Alenes with the soldiers because there was no other power by means of which he could uphold the law and

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maintain order. He did one thing: he stopped assassination in the Cœur d'Alenes. He restored order; and I will leave it to you whether or not there was a necessity for his action when a thousand men could get together and violate law and commit murder in the open light of day. I will leave it to you if drastic measures were not necessary in order to preserve the integrity of the State.

But what did they think of this man when he was resting in his simple home in Caldwell—sleeping his last sleep? Seven years had passed. He had gone into private life. He was martyred, blown to pieces at his gate, even as he was looking into his lighted home on that holiday night. Everything connected with the crime, every surrounding feature of the awful scene, would naturally compel men to forget all past differences and bury all past hatreds. Even if he had been an enemy, anyone would have naturally said: "Let us forget and forgive. Perhaps he erred, but let us bury his error in the grave with all that is mortal of him." No, no. Here is what they say:

Former Governor Frank Steunenberg, of Idaho, met his death last Saturday evening at his home at Caldwell, Idaho. The press dispatches report his dissolution via the bomb route.

That is the eulogy of the Western Federation of Miners, passed upon Frank Steunenberg at an hour when the world stood aghast at the awful crime. "The press dispatches report his dissolution via the bomb

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route." My God! What can be said in answer to this awful, unappeasable hatred? You might well suspect that the man who wrote that article under those circumstances was a man who was capable of nurturing within his heart the desire of murder—and such turned out to be true. The man who wrote that article, who boasted of it, whose eyes gleamed with gratification when he was asked about it, turned out, indeed, to be a murderer. He expressed the sentiments and reflected the views of the officers of the Western Federation of Miners.

But I read again. Let us get down to the roots of this hellish hatred:

A chap by the name of Steunenberg was blown up by a bomb at Caldwell, Idaho, on December 30th. He was Governor of that State some few years since and attained considerable reputation as the inventor of that revered American institution known as the "bull pen." The bomb had been carelessly left, presumably by some Russian revolutionist, in the gateway leading to the Steunenberg habitation. Such carelessness should be frowned down. The gate was completely wrecked.

This is the eulogy! No motive! No feeling of hatred! And yet counsel for the defense say that these things had been forgotten; that Cœur d'Alenes was a thing of the past; Steunenberg was in private life.

Gentlemen of the jury, these are the words of the men who were running that paper. The defendant was paying for it; the Western Federation officials were

sustaining it. It was their voice speaking to the world over the grave of Frank Steunenberg, and it carries the poisoned venom of the settled hatred of six years. We know, just as well as we know that we are trying this case, that out of the conditions of 1899 arose this hatred for Governor Steunenberg, and that it never died; that he was never forgiven; that it lived and would live as long as lived any individual who was acquainted with that situation.

The crime was born of no ordinary conditions. You must not look for the motive among the ordinary passions which hold sway in the hearts of common malefactors. Ordinarily, when we look for the motive which impels to the commission of crime, we search the dark recesses of the human heart, to find somewhere in its foul chambers, crouched and coiled and hissing, the serpent of jealousy, greed, personal hatred—some vile passion long since dead to the voice of humanity. Do not permit yourselves to be led by adroit counsel into searching there and there alone for motive. You will not find it. You must enter another domain, a field of crime where fanaticism and violence walk hand in hand under the red flag; where law and its blessings are cursed; where order and its fruits are disowned; where the sacred flag of the free is lowered, as it was a few days ago in an eastern city, to the red flag of blood and death—there you will find the real motive for this crime. Revenge? Yes. But it was the revenge of those only who hate order and law, who hate the restraint of government, who hate the man who maintains government

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and stands by his official oath. Understand this and you will understand why it was decreed that, though six years had passed, the man who restrained violence in the Cœur d'Alenes was doomed to die.

Now, gentlemen of the jury, I want you to watch Jack Simpkins, Harry Orchard, George A. Pettibone, Charles Moyer, and William D. Haywood. Watch these five men! In a little over thirty days Frank Steunenberg is to die. Watch their actions. They are going to and fro; they are in touch with one another; you will find out pretty soon whether or not there is evidence of a co-conspiracy outside of the testimony of Harry Orchard. Watch them! Do not expect the State to prove all they said, but watch their actions. One conspirator is to-day a self-confessed murderer; another conspirator a fugitive from justice; another conspirator down here in jail afraid to testify. No evidence? What more do you want? Watch them from this time, because we have them all in action. They are in touch with one another; they are moving on to the scene. This man is doing his part, that man is doing his, and you will find a complete and absolute conspiracy, terminating with the final effort of these parties to save Harry Orchard after the crime is committed. . . .

Gentlemen, when you consider these circumstances and all of the other circumstances in this case, when you pile one of these circumstances upon another, connect one fact with another, when you take the story of Harry Orchard and follow it up with a long line of

corroborated facts, there can be no possible answer other than yes to the questions: Was there a conspiracy, was this defendant a member of it, has Harry Orchard testified to the truth, and is he corroborated? . . .

Here I wish to call attention to some of the startling doctrines of Mr. Darrow. This is not for the purpose of attacking the man personally. Personally, I like him very much, but I do not like his doctrines as given to this jury. I am going to say a word in answer to them. No better time could be selected for a reply than while we are discussing these wholesale attempts of Orchard to murder Peabody, Gabbert, Goddard, and Bell. When you heard these doctrines thus given to you yesterday, you must have said to yourselves at once: "This man justifies murder, cold-blooded, deliberate murder, openly in the courts of our country." If Haywood felt as his counsel feels, who speaks for him, if this is the creed of the Western Federation of Miners, why should they not kill and murder? The surprise is that Peabody, Gabbert, Goddard, and Bell are not all dead. If "constitutions are only made for the rich," if "laws are made to protect the rich and oppress the poor," if that is the way they feel, if society is rotten and debauched and corrupt, if the vermin of shame is crawling everywhere on the body politic, why not raise the red hand of anarchy and drive everything back to chaos and force? These are the potent reasons for crime, and if you lodge them securely within the brain of man, you are rendering him capable of crime. Shame, oh, shame, that one so gifted, one so blest with

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genius, has so far forgotten! The Constitution was made for you. It is the shield of the weak. Brave men are every day throwing it around the poor and the helpless. Patriots purchased it with their blood, and patriots will preserve it at the cost of limb and life. Our laws are made for us. This splendid old fabric is the priceless estate which belongs to all. Men are not all fiends; love still lives in the human heart; virtue still seams our civilization with strength; patriotism still stirs the breast of man; law reigns, and there is a Power above, just and righteous altogether. Whatever there may be of factions, whatever there may be of classes, whatever there may be of trouble, all will be finally settled and adjusted in accordance with right and justice—brave men, courageous men, will lead the way and all will follow. Somewhere and in some way will be found lodged within the law a power which will guide and control men without the necessity of their taking the law in their own hands. These doctrines that have been given you are wrong, they make men wrong, they inspire doubt and distress, hatred and murder. These are the doctrines that have turned from its true course this great labor organization. These teachings show as their fruitage the awful story this evidence reveals. They are at the bottom of a vast number of these crimes. We are trying to determine now whether or not the State of Idaho can enforce the law and stop the spread of these blighting doctrines. We are trying to determine whether there is some of that old courage, that manhood which is willing

to stand up and uphold the law, protect property, and shield life.

What a scene we have passed through in these sixty days of trial! Twenty-odd murders proven and not a single man punished. Men blown to pieces—laboring men trying to earn their daily bread, trying to plant the dimple of joy upon the faces of prattling babes, trying to drive the shadows from the simple hearthstone—blown to an unrecognizable mass because they were not union men. Men high in the walks of life murdered upon the very door-steps of their homes because they sought to uphold the law! And at last, when we try to administer punishment, the State is attacked, the courts attacked, everything we love denounced, our dead slandered. Never was there a greater call for courage, for manhood, than the call which comes to you to-night. Some of you have stood the test when the flag was in danger. Some of you have stood in the trenches where death seemed king, but never was there a greater demand upon you for intelligence, for manly, fearless action, for courage and conscience than now.

I have read Danton's harangue to the mob in the streets of Paris; I have all but heard the silvery tones of Desmoulins in the Jacobin clubs, where organized assassins toyed with the lives of men; I can see Robespierre, now drunk with his fellow's blood, staggering back against the pillars of the assembly hall as retribution raised its cold hand to lead him forth to death, but never have I heard or read so frightful an attack upon all those things for which the saints of justice

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have suffered martyrdom as I have heard in this court room. Some may falter, some of us may not stand the test, but there will be found somewhere men brave enough to do their duty. Such doctrines cannot prevail. . . .

Gentlemen, I am worn out, and I have no doubt you are more than weary yourselves. I am not going to trespass much longer upon your time. You have been patient and considerate in the extreme. The great task imposed upon you, the great trust reposed in you, have stimulated and sustained you throughout this long and tedious trial, and you have watched and listened and been faithful. You are to-day carrying with you the anxious solicitude of an entire people. There is no home in Idaho to-night but thoughts of you and your final duty will intermingle with the sentiments which made that home possible. The Court, the faithful officers, the attorneys, now pass into the background; and all thoughts, all considerations, are with you—the twelve men selected and sworn and solemnly charged with the most grave and solemn task ever given to twelve men in Idaho—they are waiting, waiting for the voice of your foreman.

You will never again occupy a position so important, so responsible in all its bearings, as you do now. On the one hand, if you believe in the face of this evidence that this man is innocent, you will release him, turn him loose; but, on the other hand, if we have pointed to the men who conceived and caused to be carried into dire execution this awful crime, then, in the name of

law, in the name of the honor of our State, you will act without the dread of men or the fear of men, for you know that, after all is done and the work is finished and the excitement has died away, the thing which will remain with you permanently is that sleepless monitor of the soul asking over and over as the days go by: "Were you brave and faithful in the discharge of the most supreme duty of life?"

I have no doubt that many times during this trial you have been much moved by the eloquence of counsel for the defense. They are men of wondrous powers. They have been brought here because so rarely gifted in power to sway the minds of men. It was their part in loyalty to their clients to toy with your sympathies, to call you, if possible, from the plain path of justice and duty, to lead you, if possible, from the brave and manly consideration of the real facts of this case. But as I listened to the music of their voices and felt for a moment the compelling touch of their hypnotic influence, there came back to me all the more vividly, when released from the spell, another scene—there came to me in more moving tones other voices. I remembered again the awful night of December 30, 1905, a night which added ten years to the life of some who are in this court room now. I felt again its cold and merciless chill, faced the drifting snow, and peered at last into the darkness for the sacred spot where last lay my dead friend, and saw true, only too true, the stain of his life-blood upon the whited earth. I saw men and women standing about in storm and darkness, silent in the

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presence of the dreadful mystery, and Idaho disgraced and dishonored—I saw murder—no, not murder—a thousand times worse than murder. I saw anarchy displaying its first bloody triumph in Idaho. I saw government by assassination pointing to the mangled form of Frank Steunenberg, the broken family, the blood bespattered home, and saying to all: “Look, look and take notice! Here is the fate of all who do their duty to their State and the Government.” As I thought over that night again, I said to myself: “Thou living God, can time or the arts of counsel unteach the lessons of that hour?” No, no; for the sake of all that good men hold near and dear let us not be misled, let us not forget, let us not be falterers in this great test of courage and heroism.

Soon these men will be gone; their homes are elsewhere, and as brothers of the bar I wish them well. They look for protection to other States, to other laws. But we remain and with us remains the solemn duty of protecting life and property, of standing by the State you have helped to build and within whose borders you have planted the reign of law. Gentlemen, I do not want innocent men convicted; Heaven knows I do not thirst for innocent blood. Counsel for the defense have tried to make you believe that we would have professional distinction at the cost of human liberty or life. There has been something in this case to make a man forget all professional pride. I only want what you want—murder stopped in Idaho. I only want what you want—human life made safe—assassination put

out of business. I only want what you want—the gate which leads to our homes, the yard gate whose inward swing tells of the returning husband and father, shielded and guarded by the courage and manhood of Idaho juries.

But they say it is a solemn thing to take life. True, very true. But the fearless performance of duty by courts and juries protects society and prevents the spread of murder and anarchy. In the olden days, when man walked closer to his God and heard more clearly the admonitions of the moral teachings under which we must thrive or perish, it was said: "Whoso sheddeth man's blood by man shall his blood be shed." He who takes life in the malice of the heart forfeits his right to live—for the sake of society, for the sake of all men who love their fellow-men and want to live with them in peace—he forfeits his right to live. It has been so from the beginning, so by the sanction of Him who provides all things for the good of the children of men.

If this be true where individual man slays but another, ten thousand times more true should it be where men, in hatred and malice, in stealth and in secrecy, combine, confederate, and agree to carry on and commit indiscriminate murder; where men defy law, denounce society, trample upon all rights, human and divine, and thirst for the blood of all who chance to thwart or oppose their criminal purposes. Anarchy—pale, bloodless, restless, hungry demon from the crypts of hell—fighting for a foothold in Idaho! What shall we do? This is the question. Shall we crush it; shall we make it un-

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safe for the disciples of this creed to do business here; or shall we palter and trim and compromise and invite it to choose other victims? These are the questions to be settled by you and you alone. It is up to you. In the court of your own conscience the verdict must be worked out and I must leave it all with you. Yet I hesitate to close. This matter lies nearer my heart than anything in my whole life. Nevertheless, I can but turn the matter over to you for your final action.

Thanking you for the State for your long and devoted service, and bidding you have courage for your final great duty, I leave the State's interest with you.

The verdict of the jury was "not guilty."

The Durrant Murder Case

ON the morning of April 3, 1895, Blanche Lamont, a schoolgirl, left her home in San Francisco, Cal., to attend the Normal School of that city. She did not return to her home that afternoon, as was her usual custom. Days passed and her disappearance remained a mystery. Some days afterwards, however, the nude corpse of Blanche Lamont was found in the belfry of the Emanuel Baptist Church. It was clearly seen that she had been murdered. Excitement in the city was intense. Suspicion at once pointed to Theodore Durrant, a young medical student. He was arrested. As time ran on, the chain of circumstances indicating guilt seemed to draw the closer around him. The mutilated body of Minnie Williams had previously been found in the same church, and strong circumstantial evidence indicating that Durrant was also guilty of *her* murder soon developed.

Durrant was finally placed on trial for the murder of Blanche Lamont. Every feature of the trial was portrayed to the world by the press, which designated the murder of the two girls as the "crime of the century." "Theo" Durrant, as he was called, had been prominent

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in church and social affairs and had borne a good reputation. This was argued strongly in his favor. The defendant was represented at the trial by General John H. Dickinson, Mr. Eugene N. Deuprey, and Mr. A. W. Thompson. For the people appeared District Attorney William S. Barnes and Assistant District Attorney Edgar D. Peixotto. It was a great legal contest, the brilliant attorneys for the defense fighting heroically and doing all that could be honorably done to save their client.

The speeches of Mr. Peixotto and Mr. Barnes at the trial were splendid examples of forensic oratory.

Remarks of Mr. Peixotto

WE, as officers of the law, have endeavored to place before you the best and most complete evidence, to suppress nothing and to offer nothing that had not the stamp of truth upon it. You cannot be unmindful of the fact of the importance of this trial. From the day it was first heralded to the world, this case has struck terror and horror to the minds of all the reading public, for it strikes at the very foundation of our lives. It means doubt as to whether when you bid your daughter, your sister, your wife, one near and dear to you, a farewell in the morning—and she in her innocence goes forth to her daily avocation—she is to return to you safe and well and undefiled, or to be lured by perfidy,

cajolery, cunning, and persuasion of some fiend in man's habiliments to some lone spot and there robbed of virtue and honor, murdered, defiled, and her body desecrated. It means whether your houses of God are safe or whether they are to be converted into charnel houses, receptacles for the victims of the lustful murderer. In this case, if we are entitled to a verdict, there is but one, one verdict that the prosecution asks, and that is guilty of murder in the first degree with the death penalty. . . .

The brilliant counsel for the defendant in his opening statement challenged the prosecution to answer the questions: Where Blanche Lamont was murdered, when she was murdered, by whom she was murdered, and what the motive was? We are now ready to answer these questions. "Where was she murdered?" In the belfry of the Emanuel Baptist Church. "When?" On the afternoon of April 3, 1895, between the hours of 4.20 and 5 P.M. "By whom?" By this defendant, Theodore Durrant. "What was the motive?" Unbridled passion—that same motive that has ruled and governed the world, made nations totter and decay, brought men from the highest pinnacles in life down to brutish beasts; that same motive that has filled our histories with black pages; that gave to the Roman Empire such characters as Nero, Tiberius, and Caracalla—whose delight and pleasure it was to see men, women, and children slaughtered before their eyes to satisfy their beastly desires; that same motive which inspired Gilles de Rays, who was executed in the year 1440 after

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confessing to the murder of some eight hundred children in eight years to satisfy his perverted nature; that same motive that actuated Catharine de Medici to have women flayed before her eyes to satisfy her perverted passion; that same motive that brought out in the revolutionary period the monstrous baseness of Marquis de Sade, from which the term sadism is derived, a term meaning passion and lustful murder added to villainies; that same motive that prompted and made into a monster Jack the Ripper, the Whitechapel murderer, who went about week after week and month after month in that quarter of London known as Whitechapel and there killed fallen women by strangling them, and left them murdered and dismembered; that same motive that was the foundation of that wonderful work in fiction of the late Robert Louis Stevenson—the portrayal of Dr. Jekyll and Mr. Hyde; that same motive that made Mr. Hyde satisfy his inhuman feelings, his perverted passion, his uncontrollable desires, by killing simply for the pleasure of killing and then satisfying his lustful desires after the killing had taken place; the motive, insatiable passion, the fire that consumes, the abyss that swallows all honor, fortune, well-being, everything.

On April 3d Blanche Lamont went to the high school which she was then attending. In due time the school was dismissed. The young girls came from their classes out into the open air and down the stairs. Mrs. Vogel said she saw two girls come out of the main entrance and start down the stairway nearest to Clay Street. Minnie Bell Edwards testifies that she came

out of the school with Blanche Lamont. Miss Edwards knew Blanche Lamont, and you cannot be misled at this point, so let us follow closely. Mrs. Vogel saw a man, whom she had been observing, run up to this couple. This man was Theodore Durrant, who should have been at Dr. Hansen's lecture, but was not there. Minnie Bell Edwards observed the man and saw Miss Lamont, and he got upon the outside of the car and Miss Edwards got in the car, and thus, by these witnesses, we have proved that Theodore Durrant stepped upon the car with Blanche Lamont after she had left the school. Mrs. Vogel saw that car start on its trip southward. Miss Blanche Lamont started with Theodore Durrant upon her last earthly journey. This defendant started on the road to the murderer's cell and ultimately the gallows. The car sped on. It reached California Street, and there, as if by act of Providence, it halted. "Stop" was imprinted in the iron bar in the track. Even that dumb thing has testified against this foul crime. "Stop," mute and motionless there in the street, cries out against this murder. The car did stop. On the sidewalk at this point were the witnesses, Mrs. Dorgan and Miss Lannigan, and Minnie Bell Edwards was inside of the car. One of the two girls on the sidewalk said: "There is Blanche Lamont." They observed this young man and saw this same young man again at the police station. They saw him again in court, pointed him out to you, identified him. That is testimony to a fact, uncontradicted, corroborated, and unimpeached, and under your oath you cannot lay it aside.

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The car continued on down the hill onto the turntable. Minnie Bell Edwards was still in the car. As she alighted, she glanced up and saw that these two persons, Blanche Lamont and Theodore Durrant, were still on the dummy of the car. Minnie Bell Edwards went on her way; Blanche Lamont and Theodore Durrant went on theirs. The story of these schoolgirls was all told and in the hands of the police before the arrest of Theodore Durrant. Thus has Blanche Lamont been taken out of school, put on the car, and conveyed down to Powell and Market Streets. She gets upon the Valencia Street car. Now comes another witness. We have read the testimony of these young girls just blossoming into womanhood. They appear in their freshness and maidenhood to give their testimony. Fit is it now that the chain in this remarkable case be completed from the lips of the latter end of life. Age now steps in. In this connection, with Mrs. Crossett's story I am reminded of that beautiful parable of life which has been portrayed to us by one of the masters of the English language, Joseph Addison, entitled "The Vision of Mirzah." Mirzah goes forth one morning musing, to the brow of a hill, and there amidst his meditations a feeling comes over him that man is but a shadow and life is but a dream. In the midst of his meditations a genius appears before him and says, "Look out into the vistas of beyond and tell me what you see"; and Mirzah, all gaze, looks. "I see," said he, "a rich valley with a prodigious tide of water flowing through it." The genius replied: "The valley is

the valley of misery, and the tide of water is the tide of eternity; look farther and tell me what else you see." "I see," said Mirzah, "upon one side a great cloud of smoke, and upon the other another cloud of smoke, and between the two a great bridge spanning this river, and this bridge is constructed of threescore and ten arches with a number of broken arches beyond. The bridge is crowded with people running hither and thither. At the beginning of the bridge the crowd is dense and thick, so thick that they are pushing each other off and people are falling through pitfalls. As they advance, the crowd becomes less, and in the middle they are all seemingly engaged at something, while, rushing here and there, hither and thither, appears some active individual with a knife or scythe cutting down and slaying his brethren and then pushing them into the surging tide. There are trapdoors and pitfalls in this bridge, and as some man is running blindly to catch at something, all of a sudden he falls through and is carried on and is lost in the seething whirlpool. Toward the end of the bridge, the crowd becomes thinner until the broken arches are reached, and at the end there are but few individuals, who have an ambling gait stepping carefully and taking precious care of themselves, jumping from one place to the other. They no longer jostle, no longer look blindly, they no longer grasp at the vapid somethings. They are now intent upon picking out their own footsteps, on preserving their own equilibrium. About the middle of this bridge there are myriads of birds, some small-wing birds, and others appearing like

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vultures seeking carrion. These fly about particular individuals." After Mirzah had observed this wondrous sight, the genius said: "That which you see is the bridge of life. In the early part of life we start out with a mad rush, regardless of others' feelings, and many are cut off. In this rush we are pestered like this people by these birds. The birds are avarice, envy, hate, anger, love, and other virtues and vices of humanity. The trapdoors are the fate of those who fall within. Those who are running about are the evil doers, the sinners, whose time is spent in injuring their fellow-men. The threescore and ten arches represent the years allotted to men. You observe some few have reached beyond. These are no longer jostling or pushing their fellow-men. They are assiduously preserving themselves. Their work is there; their lives are almost run, and they are satisfied to go along without interfering or being interfered with by any."

Mrs. Crossett has reached the end of life's bridge. She is now on the broken arches. She has lived a noble and faithful life. She has reared a large and honored family. She has children, grandchildren, and, I believe, great-grandchildren. Do you think when life's fitful fever is about over, when this lady has reached that part of her earthly career when there is nothing but the hereafter to look to, she is going to sully her conscience, burden her being with the fact that her word, her testimony, her oath, unjustly assisted to hang a human being? What counsel, however brilliant or learned though he may be, can make you believe but

that Mrs. Crossett has spoken the truth? When she said she saw "Theo," there was a tremble in her voice, for it was hard for her to say she saw this young man whom she had known, who had been a visitor to members of her family, who had been a friend and companion of her son. Thus, in her last days she is taken from a sick bed, brought into a court of justice, put through the ordeal of going upon the stand in a crowded court room and submitting to the cross-examination, that justice may prevail in our midst. When she told you, I felt that you believed it was a fact that she did see Durrant upon the car, Theodore Durrant with a girl whom Mrs. Crossett describes as arrayed in garments such as Blanche Lamont wore on that day; that this couple got off at Twenty-first Street and walked in the direction of her home and of Emanuel Baptist Church.

Blanche Lamont had not learned the character of her companion, and so, unsuspecting, she entered the little gate of the church, which, unknown to her, was then the portals of heaven. She disappeared forever from the gaze of mankind until her corpse was found as you have heard it described. What happened within that church must forever remain a blank, the details concealed alone in the breast of Theodore Durrant. That is why we asked you if you would convict on circumstantial evidence, and you severally answered "Yes." It was a deed which the eye of man could not see. If you ask for further details, we must supply them from our imaginations, and mine has been suggested to me by a bit of verse by Blanche Higginson:

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The devil he stood at the gates of hell
And yearned for an angel above;
And he sighed, "Come down, sweet siren, and learn
The lesson of passion and love."

The angel she leaned from the gates of gold
(The devil was fair in her eyes),
And she thought it would be very nice if she
Could lift him up to the skies.

"My dear Mr. Devil," she softly replied,
"My home is of comfort and ease,
And I am very well satisfied where I am,
And so—if you'll pardon me—please,

"I hardly dare venture to go so far.
Do you, sir, come up to me,
For I am an angel in heaven, while you
Are only the devil, you see."

"Too well I know that an angel you are,"
The devil with cunning replied;
"And that is the reason I covet you
For a safeguard at my side.

"You'll find the atmosphere balmy and warm,
And a heart that is wholly thine.
Here are red roses and passionate bliss
And kisses and maddening wine.

"Oh, come; angel, come; I'll stretch out my arms
And draw you to infinite rest,
And all the delights of this beautiful hell,
Asleep, you shall drink on my breast."

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The angel she leaned from the gates of gold
And she clasped him with arms of snow,
And while she was striving to draw him up,
The lower she seemed to go.

“Don’t struggle, sweet angel,” the devil he cried,
As he bore her on passion’s swell;
“When an angel’s arms have embraced me but once,
She belongs to the devil and hell.”

The devil and the angel entered the house of God. “Come hither,” said the devil; “let us ascend together the belfry leading toward heaven.” Into the belfry went Blanche Lamont and Theodore Durrant. There they were alone. Passion predominating in this perverted man asserted itself; a weak maiden fighting for her virtue and her honor, a pervert, fiend, and devil fighting to satiate an insatiable and overruling passion. His strong arms grasped her, his fingers stiffened on her throat, her breath stopped, her struggles ceased, and Theodore Durrant was a murderer.

No sooner has an act been executed than the guilty one starts to conceal. The clothes are taken off and tucked away; the body is stretched out and positioned by the hand of one who had done the like before. There, in that fantastic place on a floor erected high above the ground, with her arms crossed on her breast, alone, unclothed, unhonored, unpraised, unwept, uncoffined, and unknelled, with no dirge but the wistful wailing of the wind as it whistled in and out of crevice and cranny, the murderer left her, hoping that time

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might wither and age decay and thus identity be lost to man forever. O what a mistake was that! Did the murderer for one moment think there was a hole deep enough or a tower high enough in this little world of ours to conceal such a crime, the mortal remains of that pure girl? Like the ostrich, sticking its head into the sand and thinking it has thus hidden itself from sight, so Durrant hid in crevice and corner the telltale garments, all of the means of identification of this poor girl, hoping that in time nothing but the decayed body, the gaping skeleton, might be discovered and thought to be some poor wanderer who had thus mysteriously died. There were her gloves, her clothes, her school-books, everything as Mrs. Vogel saw them when the girl came out of the school, as Miss Edwards saw them when she went downstairs with Blanche Lamont, as Miss Lannigan and Mrs. Dorgan saw them when the girl was on the car, as Mrs. Crossett saw them on the unfortunate young woman, as Mr. Quinlan saw them, as Mrs. Leake saw them. All her apparel, everything—even the underclothes that her sister saw her put on in the morning were discovered in the church and have been brought here and exhibited to you and are now in court, each severally crying out: “Guilty, guilty, ’twas you, and you alone, who did it.” . . .

Gentlemen, following the details of the evidence, starting as you will from any point of view, you can reach but one conclusion. From every side, from every source, it leads to the guilt of this defendant or to his falsehood, and his falsehood is his guilt. I feel

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that you fully understand this matter, the responsibility and the consequences of the verdict which we ask. It is not you who convict this defendant, it is not upon any of you that the responsibility rests, but upon Providence. Providence set sentinels along the line. They have told you the story, traced this defendant step by step from the time he got up in the morning until he went into the church, killed the girl, went home to his bed, and then started on his method of concealment. All of this is before you. This man now stands before you stripped of truth, naked in his guilt. He is as naked, unclothed, and bereft, as he left the body of that young girl in Emanuel Baptist Church. There is but one thing left for you to do and that is to render your verdict of guilty. It is ours by right, by law, and by justice. We ask it as a matter of duty. We ask it as a matter of right. We ask it in the name of the law, in the name of the people of the State of California. You will be but doing your solemn duty. Do it as quickly, as surely, and as certainly as Durrant with his fingers strangled and stifled that young girl.

Remarks of Mr. Barnes

THE individual who perpetrated the hideous crime with which the defendant stands charged, and which has harrowed the soul and frozen the blood of this community, is no ordinary criminal, and his crime, in every respect in which it may be considered,

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is without parallel. It was not committed under a blind and furious impulse to revenge some real or fancied wrong to his person, his property, or his character, not from motives of gain, nor in the commission of robbery, nor yet under the hot spur of jealousy—that hell of the injured lover. It was in every sense a cold-blooded, vicious murder. It was without the slightest provocation or apparent excuse or palliation.

The assassin chose for his victim an innocent and helpless maiden, in years almost a child, almost a stranger in our city, a simple schoolgirl temporarily residing with her relatives, and engaged in the struggle to obtain an education as a teacher in the Normal School. She was undeveloped in mind, pure in life and thought, of simple and unsuspecting nature, and presenting in body none of the qualities or characteristics which are supposed to arouse the evil passions of the seducer and the libertine.

For the scene of his dreadful assault the murderer selected an evangelical church, dedicated to the worship of God, a temple where the doctrines and life of Jesus Christ were taught and illustrated in Sabbath assembly, in midweek prayer meetings, and in social gatherings.

He took the life of his victim, not with the savage mercy of the quick pistol or the salient knife, but he tortured her with the lingering process of strangulation, and so fiercely did he do his devil's work that the stigma of his crime remained until the discovery of her body, clearly discernible as the cause of death, not only by

the expert surgical examiner, but by the most unlearned observer. What other wrong, if any, was done her before her soul exhaled and went to heaven, we do not know. The advancement of natural decomposition baffled investigation and made knowledge impossible. But we know that, either living or dying or dead, she was taken by him up the steep stairs of the steeple to the belfry of the church, where he supported the poor body with blocks of wood, and left it there to rot in nakedness and wither in the cool western wind that swept through the lofty spire. He hid the remains where he believed they would remain undiscovered and have no promise of Christian burial, after having first stripped the delicate form of all its clothing, which he distributed among the rafters and beneath the ceiling of the edifice, as if he reveled and rejoiced to pollute every available spot of Emanuel Church with the spoils of his horrible sin; sin that might make hell itself tremble and deprive its chief denizen of the grim and ghastly honors of his perdition.

Gentlemen, who was this unperturbed and conscienceless criminal? To this question there can be, under the providential light now blazing upon him, but one answer, and that you will return by your verdict.

To accomplish what this monster did, required a man of an utterly abnormal nature, of extraordinary strength of will and absolute density of moral sense—one of those whom moral philosophy designates as moral idiots; creatures of keen perceptions; shrewd in devising; intelligent in execution; with mental faculties even above

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the average, yet wholly unable to distinguish between virtue and vice, sin and holiness. Gentlemen, a man who could lure to such a place an innocent girl, murder her by strangulation, deposit her body in such a tomb, secrete her clothing and her books, and who could, with the dreadful image of the crime ever before him, yet go forth among his fellow-men, attend God's worship in the spot of his dreadful violation of human and divine law, and wait on little children in the Sabbath school, such a man is of such rare quality that, if confronted at last with the proofs of his crime, he could and he would, as he has done, sneeringly smile in the awful presence of the relics of his victim, and exhibit neither passion nor emotion, neither sympathy nor regret, for the unfortunate child he had brought to a premature grave.

I have not time, nor should you possess the patience to follow me, to compare the bold and confident utterances of alleged facts exculpatory of their client into which zeal has betrayed the advocates for the defendant, with the wretched and total failure of proof. If such comparison is obvious, you can make it for yourselves.

The learned counsel who opened the case for the defendant invoked the spirit of Blanche Lamont and voiced her thought by saying: "Let him go free—he harmed me not." Gentlemen, like the counsel, I have felt her presence during all the long and tedious days of this important trial. I have seen her as she was on the third day of last April, as she left her school and her class with her little burden of books and papers. I fill

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again that slender robe with her girlish form. Above it I see her sweet face, hallowed by its wealth of hair, her gentle eyes, her smiling mouth dropping kindly words, bubbling up from the unpolluted depths of a pure heart. I have seen her as she was when the defendant addressed her at the door of the Normal School. I have so seen her every day. I see her now! There she stands behind him at this hour; not praying for vengeance for her deep and remediless wrongs, but with uplifted hands and streaming eyes praying that God will not put it into your hearts, by the mockery of a verdict of not guilty, to set free this monster to prey upon other gentle souls, pollute with vile hands the unsunned snow of other children, and defy anew that God of justice whose ministers you are.

Gentlemen, it is a curious consideration as to what are the influences of crime and what are the objects of crime. Bear in mind that when this man committed this murder and passed downstairs and away from the place of his crime, he considered himself safe—safe to a certain extent. No human eye had witnessed his assault upon poor little Blanche Lamont; no human ear had heard her first shriek of terror and amazement as this monster sprang upon her, or the last stifled moan of dying agony that preceded the awful stillness of her final rest. Not a living creature had seen his retreat from the body of the dead. None save God, whom he feared not, had watched him as he extended the naked and silent form on the belfry floor. . . .

Gentlemen, we have all heard of premonitions. We

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have heard people tell what they are. We have read about them in books. And I have often thought, as I have studied this case, what a moment that would have been when Blanche Lamont was introduced to this defendant in the Sunday-school room if, from her Father in heaven, some premonition could have come to that poor child to let her cast her eye out of that church into the future! If she could have seen, as she stood there in that Sunday-school room, with the knot of worshipers about her, with the biblical pictures, pictures taken from the New and Old Testaments, hanging upon the wall, with the blackboard written over, and painted cards with phrases from holy writ: "Feed my lambs," "As you have done it unto the least of these little ones you have done it unto me," "I am the shepherd," "Those who believe in me shall not perish, but shall have everlasting life," if, when she stood there in that Sunday-school room, surrounded by those good church-going people and by those texts and parables—if she could have looked far off into the future and could have seen that dim and desolate belfry, if she could have seen there the convulsed features and the congested eyes and the disheveled hair of this murderer as his hands met upon her throat—how she would have shrieked and fled from that first introduction! How she would have fled from there if she could have thus foreseen! But she did not. For some reason, she was not given the gift of prophecy. From her eyes was not raised the veil that hides the things to come. But she seemed, in some unknown way, for some mysterious

reason, to be attracted by his suavity; and the man, to a certain extent, must have been attracted by this girl. There she met him—either at Mrs. Noble's introduction or somebody else's introduction, and from that time began this acquaintance.

You will remember that he visited her at her home. He accompanied her on one occasion to Golden Gate Park. That was a long afternoon, immaterial, perhaps, at the time, but, in the light of these developments, of the greatest importance. After being away three hours, he brought her home, saw her aunt and apologized to her for being so late—thought he had kept her out too long. Mrs. Noble said it was all right. He was a good young man. She had been three hours with him in the park, but there was no trouble about it. She had confidence in him. She liked him; he was a pleasant fellow. He was a smooth, easy, oily scoundrel, winning his way to a girl's heart. How could she tell that, unfortunately, his blood was smoking with passion? She could not think of that. She could not look through that. That was the crawling-serpent that wound its slimy convolutions about her.

Bearing well in mind the conduct of this defendant on the stand, his language, his impression, his expression, and the manner in which he, with a certain small cunning, bandied words with the cross-examiner, I will now ask you to turn back with me the pages of your lives until April 3d last—that day which has been so pregnant with terrible catastrophe, with destruction of virtue, the destruction of home, and the peopling of

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that graveyard far away from here, up in cold Montana, where the victim of that day's tragedy sleeps her everlasting sleep, sentinelled by the snow-capped mountains of her northern home, and where she shall repose until that day when crag and chasm shall be no more, neither hill nor valley, nor great old ocean, but all things shall arise and shine in the light of the Father's countenance because Himself has risen. There she lies, and the first day upon which her wandering footsteps carried her toward her distant resting place was April 3d, in the morning, about half past eight.

Mind you, gentlemen, I do not say that on that morning he had made up his mind to murder her; but for what other purpose he wanted to be alone with Blanche Lamont, he had already determined in his own mind. When he arose and walked out of his house, instead of turning to Twenty-fifth and Guerrero Streets and taking the electric car but a block from his house, he walked seven or eight blocks, half a mile nearly, from his home down to the corner of Twenty-first and Mission Streets, at a time when he knew this girl would come to take the car, and there he waited for her. He waited for her just as he waited for her later in the day at the Normal School.

What was the reason this defendant did not deny that he was on that Larkin Street car with Blanche Lamont on the morning of the 3d? Why did he not deny it and set it up as a failure of identification by Shalmount, as he denies the fact of identification by the other witnesses? I will tell you why. It was be-

cause there was a ghost that would not down. It was because, like all criminals who ever committed crime, before he got through with his crime, before the heavy hand of the law was laid on his shoulder, he had to follow the historical parallels that come down to us in every case, from the time when Cain killed Abel down to the present moment. He had to talk about it; he had to say something and see if he was suspected of the murder of that girl. The human heart is not made to contain a guilty inhabitant like this and not have it spring from the lips at some moment. A man has got to talk; his breast will not hold it. He feels it bubbling up to his lips and demanding disclosure. That is what happened in this case.

There was Schlageter, a friend, a companion, and an associate of this defendant; and three or four days after April 3d, as the defendant and Schlageter were coming down on the car after the disappearance of Blanche Lamont—after she was resting up there in the belfry, circled by the winds above her and the clouds, the finger of the spire pointing up in an unending litany to God, and calling down on that church, blessed once but cursed now, not the prayers of the saints, but the curses of true believers—at that time, I say, knowing where that girl was, he said to Schlageter:

“Did you see me on the car with a girl the other day?”

“Yes, I saw you.”

“Well, you know that was Blanche Lamont, the girl that disappeared.”

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Gentlemen, the hand of Providence has been in this case from the beginning, for no human creature, no human wisdom, could have brought this case to the conclusion that it has been brought to; could have followed this defendant as he has been followed, without the act of Providence. . . .

Blanche Lamont and Theodore Durrant walked up to the south gate of the church; the gate was closed. Durrant opened the gate; the young lady stepped in; Durrant stepped in behind her; the gate closed, and Blanche Lamont disappeared forever from human eyes.

Eleven days later her naked body was found under the belfry. Eleven days later the hat that she wore when she left the Normal School and which she wore when she turned into the gate of that church, was found beneath the platform. Eleven days later these poor little relics of mortality were found hidden among the rafters and in the ceiling of that church.

Gentlemen, she never came from that church alive. She went into that church walking with that monster. She passed through the south gate into that church through the weeds and desolation of the churchyard, to the south door that opens into the infant class room; and there at that door, though no human eyes saw him, from his pocket this defendant drew his key. Still conversing, he bent down and unlocked the door and she stepped inside. He withdrew his key, stepped in after her, locked the door behind them, and they were alone. There she was with him alone. In that great building

alone—this weak and sickly child, the girl whose slender form but filled the dress that rests upon that model, unable physically to cope with this monster that led her there—alone, and, as the Russian proverb says, “Heaven so high, and the Czar so far off.”

There is no one who can be brought to you to tell you the details of this murder; but, gentlemen, there are the circumstances, undeniable, immutable—the silent witnesses of the awful crime in that lonely belfry, from which and by which we can reconstruct the entire tragedy unerringly, perfectly, and surely upon the stage of this Court of Justice. We can reconstruct it by the same sure, steady, inductive, and deductive reasoning from known facts as the natural historian builds and reconstructs before our astonished gaze from the bones laid bare by a glacier or volcano or earthquake, the ravenous monster of the Pliocene age.

Gentlemen, this man, not then a murderer, perhaps not then with the idea of murder fully implanted in his mind, but soon to be, soon to stand out as the most atrocious criminal in the history of American criminal jurisprudence—a character beside whom Holmes, now on trial in Philadelphia for the murder of men, women, and children for their insurance money; beside whom Holmes is a gentleman and a scholar; beside whom the first man that ever committed a murder and resorted to an alibi, Cain, who killed Abel, looms up as the George Washington of murderers; a man beside whom the robbers who killed Ibycus were soldiers and gentlemen; a man beside whom Professor Webster, who

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killed his creditor who dunned him for money he owed him and which he could not pay, and who was hanged for it back there in Massachusetts—beside this man Webster was an illustration of a man genial and gentle—I say, gentlemen, this man took this girl alone into the church and walked with her through the infants' class room and thence to the library.

What was the reason—what was the thing that brought that girl into that church with that man? He was the librarian of the church. By his own statement, he had promised her a book. King, in his testimony, when he was on the stand, said he found the library door open when he went in. Who opened it? Theodore Durrant. And he opened it that Wednesday afternoon because his first thought was of the library room; but it would not do. Why? Because, when he got in there, he realized as perhaps he had not realized before, that this room was the first room, the first room opening off the vestibule, and that it had a window that opened out into Bartlett Street, and that, if there was any resistance to what he wanted to do, and denial of his desires, any scream, any sound, on that quiet afternoon, out on Bartlett Street something might be heard. He would be liable—nay, more than liable—he was almost sure to be discovered and exposed.

No, on second thought the belfry was the place! Can you not imagine, can you not see, as I can, that room? When I close my eyes I can see that man and that woman; and I can see him telling her to come up there

into the belfry for the view that there is over the city; telling her of the people who had been up there before—how the girls in the neighborhood had been up there, and the young men; telling her there was a beautiful view up there. And I can see the two walk side by side out of the library room, up the broad sweep of the stairs, mounting the southwesterly tower of the church, and passing through the gallery of the church to the belfry door.

And I assert, gentlemen, that, as certain and as sure as the stars maintain their courses, on the afternoon of Wednesday, April 3, 1895, between 4.15 and 5 o'clock, in the belfry of the Emanuel Church, behind that door, between the inside of that door and the upper platform of that belfry, or somewhere in that belfry, was this murder committed. Either upon those stairs or upon that platform, one or the other, was this murder done. The cry, the sobs, the groans that would have been heard from that library room—out on Bartlett Street—perhaps would have melted into thin air up in the belfry. The wildest shrieks that ever human lips uttered, when the soul was torn from its body and hurled, wailing, before its Maker, would have been lost to human ears, though plain and distinct as the trumpet of St. Michael to God, who, looking down on the profanation of His holy house, veiled His eyes, and murmured: "Vengeance is mine—I will repay."

Through the church we have brought him and into the belfry. No words of mine can impress upon you that scene any more graphically than it is now probably

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fixed in your mind, but I have often thought with what kind of feelings must that man have stood in that place, and stood by—passion's slave—gazing on the wreck his passion had wrought. It is always hard to leave life. All the consolations of religion, all the blessed hope of immortality that hallows the human soul, has only been able to alleviate to some extent but not to destroy the terrors of that plunge from the known and seen to the unknown and unseen.

To what could a girl like Blanche Lamont have looked forward? What could a pure, good, and gentle daughter of any of us have seen before her for her future life? Why, she would have seen that which first comes into a woman's heart and last leaves it. Before her she would have seen the master alchemist of love. She saw in her daydreams, as in a glass, darkly, him come into her life whose hands should sweep the sounding octaves of her soul and by its divine harmonies turn all the floating dust of every day to clouds of summer glory. She could look forward to her wedding; her life; to those later days when the maternal instincts roused and sang their tender and intoxicating songs, and her heart was filled with the chords of their divine harmonies. Then, a little farther, she could see herself growing old in honor, her work all done, and children's children filling up the house with sounds of baby voices. Then, like one who wraps the draperies of her couch about her and lies down to pleasant dreams, from her hands drop the treasures once clutched to the heart's core; and, attended by the ministering hand

of science and the consolation of religion, she closes her eyes on the sunlight of this world, to open them again in that realm where there is no more sunset and no more death.

Alas for her, whose daydreams are all shattered! Alas for this young girl for whom outrage and bloody murder were to take the place of love! Alas for her whose life was to be throttled from her at its very portals—defiled, debased, dishonored, and done to death within the very glimmer of the altar where each seventh day she prayed: “Lead us not into temptation, but deliver us from evil”!

From the beginning to the end of criminal jurisprudence, the greatest, the most infamous, the most crafty murderers have done those things they ought not to have done, and have left undone those things they ought to have done. From the very first one of them—from Cain, from the robbers that killed Ibycus, that I spoke of this morning, Eugene Aram and Professor Webster, right down to Durrant—they have always done something they ought not to have done. There is no accounting for it. It is simply the irrepressible influence of history on crime. It is the remarkable atavism of great criminals. Professor Webster helped to lose his life through the preservation of the mineral teeth of his victim. Eugene Aram helped to lose his through his discussion of the bones of Davis Clark that were found in the cave. Couvoussier, the infamous English murderer, was brought to justice after a career of crime through preserving and wearing

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a collar button that belonged to one of his victims and which was worth at most sixpence; and Theodore Durrant, last but not least of that grisly brotherhood, has helped to convict himself by robbing the dead.

Why should he have taken those rings? God, who alone reads the heart of the guilty and the innocent, can tell. But he did take them; and, as he dragged from that girl's stiffening fingers those trifles, damp with her death sweat, and dropped them into his hungry pocket, he must have felt in his dank and flabby hair the first cold breath of the harvest that was to come to him—the harvest for which he himself had sharpened the sickles with which to reap. As he had sown, so should he reap. He had sown misery, blood, sorrow, and tears. He should reap exposure, detection, conviction. He was like the mariner who stands on the deck of his ship that every moment plunges lower toward the airless meadows of the cavern deep. He feels it sinking beneath his feet, yet he goes into his stateroom and straps about his body the little hoarded gold that shall weight and drag his body down to lay his bones among the timbers of dead ships and coral reefs and all that moves within the bowels of the sea. Why is it? There is no explanation of it except the curious atavism of crime. . . .

Gentlemen, we claim that we have shown you a case of murder in the first degree. There are two sides to every story. This is the proof that has been brought out on behalf of the people. What is the other side of

this story? How is this proof opposed? By what phantom broom is this accumulated mass of testimony to be swept out of the court room? By what magic seven-league boots is this defendant going to stride over barrier after barrier—over the testimony of Mrs. Vogel, one stride; over the testimony of Minnie Edwards, another stride; over the testimony of Mrs. Dorgan, three; over the testimony of Miss Lannigan, four; over the testimony of Mrs. Crossett, five; over the testimony of Mr. Quinlan, six; over the testimony of Mrs. Leak, seven; over the testimony of George King, eight; over the testimony of Mr. Oppenheim, nine; over the testimony of Mr. Phillips, ten. How is he going to stride over this?

Gentlemen, what defense is made to this charge of hideous murder? The defense that was made by the first murderer—an alibi—and, added to that, testimony of good character. I suppose the most ancient of all cases should be quoted first:

“And Cain talked with Abel his brother: and it came to pass, when they were in the field, that Cain rose up against Abel his brother, and slew him.

“And the Lord said unto Cain, ‘Where is Abel, thy brother?’ And he said: ‘I know not. Am I my brother’s keeper?’”

The first case of an alibi! Fiction, gentlemen, follows history. Good fiction is sometimes history. Let us see. I read from the celebrated trial which never took place, *Bardell versus Pickwick*. You will recollect that Mr. Pickwick was charged with having broken his

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promise to marry Mrs. Bardell. Mrs. Bardell there-upon sued him for a number of solid English pounds sterling. Mr. Pickwick had a servant by the name of Sam Weller. Sam went to consult his father, Weller, Sr., about Mr. Pickwick's trial. This is what Mr. Weller suggested, though he did not know anything about the Durrant case:

“‘Vell,’ said Mr. Weller, ‘now I s’pose he’ll want to call some witnesses to speak to his character, or p’r’aps to prove an alleybi. I’ve been a-turnin’ the bis’ness over my mind, and he may make himself easy, Sammy. I’ve got some friends as’ll do either for him, but my advice ’ud be this here: never mind the character and stick to the alleybi.’”

Gentlemen, the time, the place, and circumstances indicate who is guilty of this murder that has shocked a continent. This murder that is known wherever the all-speaking voice of the telegraph carries man's thoughts—over the mountains, and over plain, over sea and land, wherever men reason and think and read and hear, there has this murder gone! In New York, in Berlin, in Paris, in St. Petersburg, in Constantinople, from one end of this civilized country to the other, men know that the twelve men now before me are making history; that the verdict in this case will be commented upon and spoken of by every man who thinks, and until the end of history; by every student of fact, and every lawyer who deals with criminal jurisprudence. . . .

In my poor way I have endeavored to present to you

and to collate the facts and circumstances of this case, reiterating the motives that swayed the witnesses for the people, and the motive that is apparent in the testimony of this defendant—whose testimony stands alone, discredited and shattered in this case.

In conclusion, gentlemen, I can truly say that, in opening the case for the people, I endeavored to the best of my ability to state without exaggeration and in their proper chronology the facts upon which the State relied to prove beyond reasonable doubt the guilt of Theodore Durrant. I strove to perform the most responsible task, fully, fairly, and without prejudice or passion, official or personal. My obligation as a prosecutor required of me such an effort, and I believe that I have done nothing more nor less than my duty as God has given me the power to discern it. I may add that so far as my personal feelings are concerned, I have struggled not without difficulty, all through this investigation, to be more than fair to the defendant; to lay aside for the moment my sentiments of utter horror and detestation of the man of whose guilt the proofs absolutely convinced my mind—sentiments which have daily more and more oppressed and hindered me as in no other criminal case in which I have heretofore participated.

Now, here, you have to combine and place in due order the testimony in the case intrusted to your keeping. Witnesses have brought to you their facts, their observation, their experience. Separate facts, each of no great significance of itself, are borne to you by many

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persons. The structure you are building depends upon the truthfulness, the discernment, the motives of no one man or woman. Each part fits with its companion part without doubt, hesitancy, or jar. Slowly has this monument of patient investigation and tireless search been rising, each day stronger, each day more irresistible as it has neared completion.

There is weakness nowhere. There is at every side and at all heights that abiding conviction, that moral certainty, which the laws say must bind together and cement the entire frame and substance of the case, and brings the candid and honest mind to the conclusion that this defendant, and none other, was the slayer of Blanche Lamont.

The structure which has thus been builded, cemented with a mass of indisputable facts consistent with his guilt, and absolutely inconsistent with any reasonable hypothesis of his innocence, is now before you. It is for you to finish. Will you crown it with the sublime form of Justice, robed in her garb of law, her forehead bound with the lambent purity of truth's white diadem, and in her hand the flaming sword that punishes the doer of unutterable sin; or will you leave it to the usurpation of an incarnate hell, to a grinning and deriding fiend, mocking at the paralysis of human intelligence, and hugging to his devil's breast the crime of this dreadful monster, perpetrated under the shelter of a church of God, and saturated with unspeakable and measureless depravity?

Gentlemen of the jury, so far as the people of the State

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of California are concerned in the exposition of this most tragic story, this case is with you.

Durrant was convicted and sentenced to die. His counsel made several appeals to the State and Federal courts. All proved fruitless, however, and Durrant was executed on January 7, 1898. He died protesting his innocence.

The Tragedy of Madison Square Garden

ON the night of June 25, 1906, on the roof of Madison Square Garden, New York, just as the musical show was coming to a close, Harry Kendall Thaw fired three shots into the body of Stanford White. Thaw then turned to his wife, Evelyn Nesbit Thaw, and exclaimed: "It is all right, dearie; I have probably saved your life." Thaw then gave himself up to the officers of the law.

Thaw was charged with murder, and on Monday, February 4, 1907, his trial began. District Attorney William Travers Jerome was in charge of the State's case, and Mr. Delphin M. Delmas, then of California, but now of New York City, appeared as chief counsel for the defense. It was one of the world's greatest legal battles and all the world looked on. The electric spark, freighted with the story of this trial, went to every part of the globe. The defense contended that White had wronged Evelyn Nesbit and that she had told Thaw the stories of these wrongs, and they preyed on his mind until he became temporarily unbalanced, and he, on a sudden irresistible impulse, killed. Mr. Delmas at one time styled Thaw's insanity *Americana dementia*.

Mr. Delmas's summing up for the defense was a careful review of all the events leading up to the tragedy and a most powerful plea for his client's vindication.

Mr. Delmas's Address to the Jury

“**I**F your Honor please, and you, gentlemen of the jury, we have no more right, if the real facts were known, to be here trying this prisoner at the bar than if it were prohibited by statute.”

Had you heard these words from any irresponsible person, instead of having heard them from an official charged with a public duty; had you heard them from a man given to irresponsible talk, instead of in this court of justice and solemnity; had the occasion on which they were uttered been some trivial discussion about an insignificant topic, instead of where the discussion is one of life or death—these words might not have filled you with amazement, but this was a statement made by the district attorney.

In the argument of this case I shall rely on no such unstable thing as the supposed unwritten law. I will base the fate of this defendant on the law of this State—the law of the books, the written law. Under that law we find ample protection for his rights and life, and to that law I shall resort as to the horns of the altar, for his safety. In the performance of my task it will be my imperative duty—unshunnable duty—to speak of the dead.

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I shall not be unmindful of the injunctions of the departed. Only that which is good should be spoken, but I cannot forget the circumstances under which the protection of the living demands that the truth be told, no matter how it blights the memory of the dead or how painful to the survivors. Of those survivors I can speak in no other terms than those of the most profound sympathy. For the widow who mourns and the son who survives I have no words save those of sympathy. Gladly would I remove from them, were it in my power, the cloud which must henceforth accompany their lives, and gladly would I remove from the young man the sentence that the sins of the fathers must be visited upon their children to the second and third generations.

Gentlemen, the story you have listened to is the story of two young persons whom fate, by inscrutable decree, had destined should walk through life together. It is a story—the saddest, most mournful and tragic which the tongue of man has ever uttered or the ear of man has ever heard in a court of justice.

She was born on Christmas, 1884, in the State of Pennsylvania, in the city of Pittsburg. The first years of her childhood saw her lose her father and natural protector and left her in charge of a mother who early manifested a character of frivolity and extravagance which was later to be attended with such fatal consequences.

At ten years of age the family began to feel the pangs of want, the sufferings of poverty, and the gnawing of hunger. At twelve she began to be the family drudge,

assisting her mother in such acts as she could perform. And thus the family continued moving from place to place without any fixed habitation on the face of the earth.

But Nature having endowed her with beauty which showed in early youth, we find her looking to it for the support of the family. At fourteen we find her in Philadelphia, already embarked upon the perilous seas of an artist's model's life. But New York was the market in which such gifts were most eagerly sought and would be dearly paid for. And to New York the family came, and by the efforts of the mother the employment begun in Philadelphia was continued here, and the beautiful child went from studio to studio and at the end of the week paid into the hands of the mother the scant few dollars she had earned to support the mother, the brother, and the child.

But the large metropolis afforded broader avenues of gain than the mere studios of artists—the stage with all its tinsel and glare of dazzling lights lay before them, and the tempter came.

The theatrical manager found the girl at fifteen and employed her at fifteen dollars a week, where she slaved at night as she did by day—posing for artists—but at night she appeared on the boards of the stage.

It could not be long, for the beauty with which she was gifted attracted attention and the tempter came. He saw, he desired to have, with the consummate cunning of a man whose head had already grown gray. He had a wife and an accomplished son. He fixed his eyes upon the child and determined to make her his.

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To win her, he had none of the graces which a man of her own age might present. He was already married and had a family of his own, and any such thought of love—legitimate love—between him and this child was out of the question. He introduced himself into the family in the guise of a protector. His tender solicitude manifested his intentions to ameliorate their condition. He won his way into the confidence of the mother; established himself in the position of a protecting attitude toward the family. When his purpose was secured, he persuaded the mother to absent herself from the city, assuring her the child would be safe in his hands in her absence, telling the family that they should rejoice that they had such a careful eye to watch over the beautiful child. She went. The child was left alone.

I wish, gentlemen, it were in my power to pass over the scene which followed. I wish it did not have to be embodied in the argument I have to make to you.

To one of those dens fitted with all the splendor and dazzling beauty with which this man of genius endowed his places, this child was one evening lured under the pretense that there were to be others there to share the supper that had been prepared, and when she arrived she found herself alone with the man who had promised to be her protector.

Need I recount to you how the child was led from one step to another until, plied with wine and plied with drugs, she became unconscious, and this man, who had promised to protect the child, accomplished

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her ruin and downfall? Need I recall to you the terrible scenes which you heard told from the lips of this tortured victim?

Oh, better for Stanford White had he never been born! Better that his ears had never been opened that he could not have heard the words of anguish of the victim! For what had he—a man whose hair was already gray—what had he done? He had perpetrated the most horrible crime that can deface the human heart. He had lured the poor, innocent flower that was struggling forth to life. He had committed a crime which is a felony—which the President of the American Republic in his last message to Congress said should be punished by death.

He who had erected altars and sanctuaries and churches crowned with the emblem of the Redemption—had he forgotten the words: “Whoso receiveth such a little child in my name receiveth me, but whosoever offendeth such a little one, it were better that a millstone were tied around his neck and he were cast into the sea”?

O ye who have erected temples to the God of Abraham, Isaac, and Jacob, have ye forgotten the words of Jehovah, when upon the return from Egypt He said: “Ye shall not afflict a fatherless child. I will surely hear that cry, and I will kill you with the sword and your wives shall be widows and your children fatherless”?

O Stanford White, in the entirety of your hardened heart, you imagined that the cry of the fatherless child

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which that night was heard in the darkness of the great city, where good citizens were at rest, the child without a father, the child deserted by her mother, the child left alone in this city of millions, would not be heard. Did your hardened heart imagine that God would not hear that cry? Did you imagine that He had forgotten the promise He made—that anyone who afflicted a fatherless child would surely die? Did you believe that the retribution would be omitted?

Better had it been for him had he died before that day, for then he might have died in glory—he might have died when public mourning would have attended his obsequies; he might have died before his name had become a byword; before his genius had become an aggravation.

But fate had decreed it otherwise. The poor child, returning to her senses, not realizing what had been done, was taken back to her home, there to sit in lonely vigil until he went back the next day to complete the pollution he had but partially begun the night before. It remained for him to destroy the last vestige of womanly honor in her mind, and he performed that task after daylight that day.

He went there—he, the strong man, kissed the hem of her garment; told her to dry her tears, and to stifle her moans; told her that what she did was not wrong, that it was but what all women did; that the only sin was to be found out, and that if she would but keep the dread secret pent up in her breast and not tell her mother, all would be well; that all women were wicked;

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that the only distinction was that some succeeded in concealing their vices, while others were found out.

And so he left her. And so he lured her again and again, plying her with wine in the same dens for a couple of months.

Is this story true, gentlemen, or, rather, is the story I have related to you the story Evelyn Nesbit told Harry Thaw in June, 1903, in Paris? That, gentlemen, is one of the main questions which you have to decide in this case and in the elucidation of which I may be permitted to occupy a little of your attention.

The prosecution says this story is a clever lie—the result of the imagination of this defendant's wife. Your first inquiry must be into the veracity of Evelyn Nesbit. If she never told Thaw this thing, then she has been an untruthful witness before you.

She gave this testimony:

And those things you told Mr. Thaw of the outrages at the hands of White were true?

Her answer was:

Those things were true.

In corroboration of the statement that these things did take place, I beg to refer to the evidence and to the things that have occurred before your eyes. You have seen Evelyn on the stand for four days. You are men of the world—men accustomed to looking through the souls of men and analyzing their conversations—you

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are asked to judge if she were a clever actress as she sat in that chair and related the horrors of that night.

You saw when she came to the final occurrence of that night—you saw her countenance—how the shadow of horror overspread it. Although the story was to save the life of the one person whom she loved, you saw how she shrank from telling it. You saw the drawn face, you saw the brave little girl struggling that she might save her husband, that she might overcome the objectionable features of the story. For days and days you have seen her undergoing torture of an examination unparalleled in the jurisprudence of this or any other country.

Did the district attorney of your city, to whom I give the greatest acknowledgment of talent, confuse her? You saw him using all the arts, resorting to all the strategies of a practiced master to entrap a girl who had never testified before. Was she caught in a single falsehood or contradiction? You have seen learned men on the stand—tell me, if you have ever seen a witness who has stood the excruciating tests of cross-examination as well as this child?

Gentlemen, in that cross-examination the merciless district attorney—I say merciless without offense, because his office is not one of mercy—you saw him extort from her truthful but unwilling lips the confession that the misdeeds of Stanford White did not stop with the first wrecking of her life, but continued until God asserted Himself in her and she would no longer be the plaything and toy of this man.

I ask you, on your oaths, if this girl had fabricated this story, would not she or the others who prompted the story have, for the sake of sympathy, said that the first drugging was the only occurrence and that she had shrunk from further dealings with such a man?

Upon any other theory than that the story is true I ask you the question, Why did Stanford White, just at that moment, see fit to remove the mother—the only protector left this child—from her post as sentinel? Why was the mother sent to Pittsburg with money furnished by Stanford White? Why was the brother sent to school?

Gentlemen, I desire to call your attention to this point. At this time Stanford White made a contract to pay Evelyn the sum of twenty-five dollars a week during the time she should be unable to obtain her own living on the stage. And during that one year we have discovered—by a strange fatality which ever seems to assist the cause of justice and to disconcert the cause of injustice—there appear certain checks on which the name of the mother was indorsed.

And, according to a computation made by some gentlemen in court, the mother, for the year following the ruin of the child, received twenty-five hundred dollars in round numbers—two hundred dollars a month. And yet the district attorney tells you that, at the same time, Stanford White was in embarrassed circumstances.

One circumstance I desire to call to your attention. It relates to the assistance which the prosecution draws

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in its attempt to deprive Evelyn of her husband. You will recall that when the name of the mother was spoken, I disclaimed having said anything that would cast reproach upon her.

Gentlemen, at the time I made that declaration I wish you to bear in mind that three things had not developed. It had not developed that the mother had been in receipt of two hundred dollars a month from White. It had not developed at that time that the mother was assisting the prosecution in the work of this case. It had not developed at that time that the mother had given a written statement to the district attorney by which he might torture the soul of her daughter, a daughter who had been left alone in the world except for a most unnatural mother.

And when I saw the district attorney with that paper in his hand, when I heard him read from it on the cross-examination of this girl, when I learned that every shaft which he aimed at her heart came from a quiver furnished by her mother, when I learned that every sore in her poor soul had been pointed out to the district attorney, that it was a mother who was pointing out those sores, and when I learned that the poor little girl had been sent away to school so that she might get the money she desired from Stanford White—oh, gentlemen, I now retract what I first said about the mother.

O most unnatural mother, you who left the girl a victim of the lust of this gray-haired man! You who received the wages of her downfall, funds with which you bedecked yourself with diamonds and finery, now

in the hour of her supreme agony this mother assists the prosecutor of her husband!

Why, a beast that wants reason protects her young! While out hunting I have seen a poor little bird no larger than your fist, with a number of young ones playing in the dust around her; I have seen a pointer come running upon them and the little bird ruffle its feathers until it looked as big and old as an eagle, making the dog pause and return abashed.

Gentlemen, I have now laid before you in outline what was given you in evidence. I propose to prove by evidence that will demonstrate the truth, which will leave no hook upon which to hang a doubt, that Evelyn Nesbit told the story she swears she did in Paris in 1903.

In the first place, you have the undoubted, undisputed fact that Mr. Thaw—in September of that year, when Evelyn's mother returned to New York—that Mr. Thaw narrated that story in a letter to his counsel, Mr. Longfellow. In the first letter he says:

Mistress Nesbit sails to-morrow for New York. Her daughter can't be with her, because Miss N. was beguiled by a blackguard when she was but fifteen years of age. The child was drugged.

And in a later letter to Mr. Longfellow he says:

Her position could not be worse. She was poisoned at fifteen and three quarters. Also since.

Now, gentlemen, bear in mind that these two letters were written by Mr. Thaw, in Paris, to his counsel, Mr.

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Longfellow, in New York. I ask you who is the black-guard referred to in these letters if not Stanford White? What is the superhuman negligence of the mother if not her trip to Pittsburg, leaving her daughter alone in New York?

How was the child beguiled, if not by Stanford White's paternal kindness and show of parental goodness? I leave it to you as to what these two letters can refer to if not to the story Evelyn Nesbit says she told Harry in Paris in June, 1903.

The learned prosecutor says that he invented it all. After inventing, did he go home and tell his mother—the mother who had given him birth, who had nourished him at her breast, who had watched him in his sleepless bed at night as he was giving evidence of the troubles which were to have such a bearing on this case?

When he broke down in church and tears fell from his eyes and a groan broke from his lips, was he telling, was he acting a lie? Harry Thaw loved Evelyn. He had loved her ever since he saw her in 1901. He had loved and wooed her honorably, and honorably sought to make her his wife.

I make these assertions before seeking to make any deductions from them. It is meet and proper that I establish them as facts. As early as 1901, when he found her on the stage, he realized that that was not a fit place for a young girl like her. He was contemplating sending her to school—that is to say, for three years. Then she might come out and take her station in the world as his wife.

And even though she did not become his wife, he would be amply repaid by the nobility of the act he had performed. Evelyn Nesbit says he met her in 1901 and called upon her frequently, but was not always at that time a welcome visitor. It seems her mind had been poisoned by the same persons who afterwards poisoned her mind against him again. He says of her: "When I first knew her she was the most active, laughing, strong, and fair child I ever saw." That was the time when she was the support of the family, going about in the daytime from studio to studio, appearing on the stage at night, and pouring into the lap of her mother her scant wages.

And what was the nature of the foul wrong done to this child? What was the fatal deed which he said he would gladly have purchased with his life if it could be undone?

I say to you, these letters refer to no other transaction than the story she related on the witness stand—the story she told you she told him in June, 1903. The letters were private. They were to be locked up in Mr. Longfellow's breast. Then ask yourselves whether it is possible that Mr. Thaw was telling his lawyer in September a falsehood or an invention of his own brain?

This is not all. You remember Thaw returned to New York in November, and shortly thereafter went to his home in Pittsburg and told his mother the selfsame story he told his lawyer then in these two letters.

I desire to give you the mother's testimony and ask

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you whether I am not telling you exactly what occurred. Not only that, but I invite interruptions if you desire to set me right if I omit or tell anything that was not part of the testimony.

Now, the mother whom you have seen on the stand and of whose veracity I believe not even the prosecution has any doubt, this mother says that after he arrived home she found him awake at night, and when she went to his room he said it was because of a wicked man—perhaps the most wicked man in New York. She learned before Thanksgiving that this was said about a young girl, but did not at that time learn her name. Her son told her he was interested in that girl. This she learned one night when the mother found him in his room at dawn. He had not been able to get sleep—surcease from his tortured brain.

She said her son told her that this girl had the most beautiful mind he had ever known, that she had been neglected, that if she had a chance and anyone looking after her, she would be all right. And then, you remember, gentlemen, Thanksgiving came. And the mother and the son went to church together, and there, while the solemn anthem was pealing, she heard tears dropping upon the paper which he was holding in his hand, a stifled sob.

In 1903 he intended to marry her. Writing to Longfellow, he says:

Miss N. and I may be married after Lady Yarmouth comes. We could have been married without a row. If I die, all my property goes to my wife.

And, writing to her, he says:

Mr. and Mrs. George Carnegie should be your loving brother and sister-in-law.

Gentlemen, no man of his years, of his temperament, ever wooed a woman in a manner more respectable than Harry Thaw wooed Evelyn Nesbit. There is nothing to show that everything and every bit of testimony does not confirm the statement of Evelyn that, in June, 1903, he proposed honorably to make her his wife.

In corroboration of these facts told by Evelyn Nesbit, that she told this story of Stanford White, that he, Thaw, asked her to marry him, that it is not a cunningly devised tale told by Harry Thaw for his own purposes, I ask you these questions: Does a man who loves a woman, who has lavished upon her for two years all the affections of his heart, does a man who loves a woman honorably and sought to make her his wife and besought her mother's consent—does a man like that deliberately invent a story of this kind to defile the object of his adoration? Until you can take from this case the fact that Harry Thaw loved Evelyn Nesbit, if any man says to you that he deliberately invented this story to degrade the object of his affections—the most degrading story any man could tell—it is not in the human heart but to revolt from the allegation.

If I mistake not, I have established to your satisfaction the great, simple fact that this story about Stanford White is not an invention and that the statement that

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Evelyn Nesbit did tell the story to Thaw is true. As against this assertion, what evidence is there in this case? What is there to contradict this statement of Evelyn Nesbit, the statement that she told this story to Thaw? Nothing except the testimony of Abe Hummel. I will not speak of that unfortunate man in any harsher terms than the exigencies of this case require. But it is a melancholy sight to see a man in the declining years of his life, when soon the sun must set for him forever and he will appear to give that account of his life that we are all called upon to give after death—I say it is a melancholy sight to see a man whose pathway has been wreathed with dishonest acts, crowning his acts with perjury, resorting to perjury in order to deprive a fellow of his life.

Gentlemen, is this censure deemed excessive? Listen. Mr. Hummel is not lacking in intelligence—certainly is not lacking in cunning. Let me recall to your mind the photograph of the alleged affidavit. You remember what weight the prosecution attached to it and of what importance they considered it. As you remember, Hummel swore at one time positively that he sent for the photographer; at another he swore as positively that he did not. Which of these stories is true? They both came from the witness sitting in that chair. They both have the sanction of his oath—the oath of a man already convicted of subornation of perjury and conspiracy. Both of these stories cannot be true. Which one is true? One of these stories is a deliberate falsehood, and which it is I care not. Probably both are false.

Abe Hummel testifies that this thing, miscalled "affidavit," was dictated by him in the latter part of October, 1903, in his office, to a stenographer whose name he does not remember and even whose individuality he has forgotten. Listen. If Abe Hummel dictated this illegal affidavit, as he swears he did, in the latter part of October, 1903; if this is his work; if these are his words, this his dictation, then he committed deliberate perjury, gentlemen, and the proof of this perjury was in the hands of the learned interrogator. He held the paper before him while the witness was in the chair and could not but know that, at the time the witness was swearing, the proof of his perjury was lying before him.

In order that Abraham Hummel could testify at all—before his lips could be unsealed—it was necessary for him to swear he was not acting in an official or professional capacity for Evelyn Nesbit when he dictated this statement. Hence the absolute necessity that this wretched old man should swear that he was not acting as her attorney. Hence he says:

I was not acting for Evelyn Nesbit. There was no action contemplated by her. She did not consult me in my official capacity.

Hence there could exist no professional relations. He said so.

This is the famous paper by which Abraham Hummel hoped to help the district attorney send Harry Thaw to the electric chair. Who dictated these words which lay

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open before the district attorney as he questioned Hummel?

I received many cablegrams from Mr. Thaw, which I turned over to my counsel, Abraham Hummel.

Who dictated these words, if the paper was dictated at all? Abraham Hummel, who came upon the stand and swore he had never acted as her attorney—Abraham Hummel!

“Howe & Hummel, attorneys for plaintiff,” are the words that appear on the indorsement of this paper. And who was the plaintiff? Evelyn Nesbit. And the same man who tells you no action was contemplated is the man who dictated the first words of this affidavit, which read, “Evelyn Nesbit, plaintiff, *versus* Harry K. Thaw, defendant.” This is in letters as legible as I have ever looked upon. Perjured when he tells you he was not counsel for Evelyn Nesbit, when he tells you no legal action was intended when he dictated this affidavit!

You are called upon to convict her of perjury. You are called upon to do so upon the strength of Hummel. And on that testimony you are called upon to deprive a human being of his life.

How did this paper have its birth? Miss Simonton came here after hearing in Paris the story you have all heard. Arriving here, she went to Mr. White in order to get confirmation or denial of that story. His body turned icy cold when she told the story you have heard. He knew that what he had done would not only disgrace him, but would send him to prison. . . .

She was told that Harry Thaw was a married man and that she should be protected against Harry Thaw, and he took her to Hummel's office. What was White's object in taking her to Hummel's office? It was to get from her by some monstrous deception her statement of her story about herself that would neutralize their efforts should they ever attempt to bring up against him their story of his outrage, of his acts.

Gentlemen, I have endeavored to lay before the eyes of the jury the picture of the fate of these two young people. I have tried to show the unfortunate occurrence which befell her when she narrated to him in the summer of 1903 her awful story of what had happened. I have shown, or at least have endeavored to convince you, that the facts which she swears she then related were true, and that it is true that she did relate them to the defendant at that time.

She says, after narrating what took place in Paris in June, 1903:

The effect of this story on Mr. Thaw was terrible. To think of me—I was so young—and to think of this big, great yellow brute. It must have been frightful. He could not think of it. He would walk up and down the room exclaiming, "O God! O God!" and kept sobbing, not like an ordinary sob but a terrible sob. He kept saying: "Go on, tell me the whole story." He said it was not my fault—that I was simply a poor unfortunate little girl; that he didn't think any the less of me on account of it, and he said that no matter what happened he would always be my friend. He renewed his proposal of marriage two months after. He said

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that I was not to blame, that it was not my fault. I told him that if I did marry him the friends of Stanford White would always laugh at him—that they knew about it and would be able to sneer at him after our marriage; that it would not be right for us to get married; that it would not be a good thing because of his family; it would get him into trouble in his social relations. He kept saying that he could not care for or love anybody else. He said he never could marry another woman, and that he wanted to make me his honorable wife. He said I was an unfortunate person and he thought just as much of me. He kept pressing me to become his wife, but I said I could go on the stage. I said that if he ever met some one he wanted to marry, he would be perfectly free to do so. I loved him so dearly, but during the whole period I was refusing his offers of marriage because I loved him. And I also respected him.

“Sublime renunciation,” says the sneering district attorney. “Sublime refusal on her part to accept the hand of a wealthy man when he offered her an honorable union.” Incredible, he would lead you to believe. “Impossible!” the district attorney says, and in the same breath intimates that it is a falsehood from beginning to end. I shall prove to you by evidence that will convince you beyond every doubt that this renunciation by Evelyn was sincere. I shall prove to you beyond the slightest doubt that she did refuse him and refused him for that reason alone. Man, it may be, has not that great power of renunciation, but in the gentler breast of woman do we find that great gift of God, and in the breast of this little girl existed this

great strength that enabled her to put aside her one love when she knew it was for the good of the one she loved.

Sublime renunciation! Ah, indeed it is. Do you remember the letters he wrote three months after this sublime renunciation? He says in a letter written in September, 1903: "Three months ago I asked her point-blank. She thought, but said she would not; that it would shut me out," etc.

The genuineness of this letter is not disputed; that it was written to Mr. Longfellow is not denied; that Mr. Longfellow was the trusted friend and adviser of Harry Thaw is admitted. Three months before September, 1903, when this was written, was in the early summer of 1903. Is not that true? Is it not true that she had refused him? In this letter he says she thought she did not want the man she loved to become an object of scorn. She looked up to the man she loved and she did not want the man she loved to be pointed at with the finger of scorn. In her little heart she said: "O Harry, I love you. I love you so much that I will not drag you down. I want to leave you free; and the moment you say so I shall return to my own sad way. You shall be free and happy, and I will go down until I, like many others, have disappeared from the world."

The sneer, then, is unjustified. The sublime renunciation did take place, although we men may not rise above our sordid occupations to realize it. Do you remember how his mother saw him holding his vigil in his room; heard him sob and moan, and how he

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told her about the awful wrongs done to a little girl whom he loved? And he told her he desired to protect the child from the vile wrong that had been done her; that he had proposed marriage, and that she—I quote the very words of the mother—that she had refused because she would not drag him down.

Has this gray-haired and venerable mother in Israel come here to perjure herself, or did he deceive her when he told her that he wanted to extend his protecting arm over the girl whom the other had betrayed; that she—the poor little girl who was earning her living by the talents God had given her—she refused the man, not because she did not love him, but because she thought it would not be fitting to wed the man she so dearly loved?

Sublime, indeed, was the renunciation of this girl, unless the mother of Harry Thaw has not told the truth upon the stand. I return to her story as told in her own words. She says:

He talked altogether too much of this thing. He did not sleep nights. He cried too much about it. It was not crying but terrible sobbing. He would sit for hours without speaking or moving, and it was terrible, terrible. He got worse about it. He would sit for hours in a chair, just biting his nails. And then, in the midst of it, he would suddenly ask me about Stanford White. It seemed to be something that was ever present.

This, gentlemen, was the condition of Harry Thaw when, in 1903, he parted from Evelyn Nesbit and sent her back ahead of him to New York. You have the

first faint dawn of that mental condition which manifested itself three years after. The tower in which reason held its seat did not topple over, but its foundations were already beginning to be undermined. The storm had not burst forth, but the dark clouds were gathering from the four quarters of the horizon, from which lightning and thunder were three years afterwards to come in all their fury.

Evelyn says that he called upon her as soon as he arrived in New York—the middle of November. She had arrived in this city in the latter part of October. In the meantime such things had happened here that, when the man whom she loved and whose hand she had refused called upon her, she declined to see him alone, and she says:

I saw him at the Navarre. I would not see him alone. He came into the room and sat beside me and said: "What is the matter with you?" And I said: "I don't care to speak to you, because I have heard certain things about you." He said he did not understand and wanted me to tell him. I told him that I had heard terrible stories. He said: "Poor Evelyn! they have deceived you." I told him that Mr. White had taken me to Abraham Hummel's office and that they had showed me papers which they said were filed in a suit by a young woman against him. He said: "Poor little girl! you can believe them if you wish." The interview lasted ten minutes. I persisted I did not want to have anything to do with him. At the parting he kissed my hand and said no matter what happened he would always love me and I would be an angel to him.

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Gentlemen, I ask you to picture yourself in the state of mind Harry Thaw was in when he received such a greeting from the woman he loved—the one he had parted from but a few weeks ago; the one he had sworn to devote his whole life to. I ask you to imagine what his condition of mind was when he returned to New York and found that she had had her mind so poisoned against him again by the man who had been the cause of all her misfortune.

She would allow White to fill her mind with these terrors of Harry Thaw to such an extent that she refused to see Harry Thaw alone. And what must have been the condition of mind of that poor man when he exclaimed, "Oh, poor, deluded Evelyn!" and stooped and kissed her and then parted, as she believed, forever from her.

Gentlemen, what was the condition of his mind is pictured to your eyes by documents of immeasurable worth, telling the story of this epoch in Harry Thaw's life. The series of letters that voiced the wail that came from his suffering soul is unparalleled in history from the time of the Greeks to the present day.

He wrote to her the day after he had kissed her hand and parted from her—she thought for all time:

Yesterday I saw you—you believed everything false people told you. Poor little Evelyn! you have fallen back into the hands of the man who poisoned your life— who poisoned your mind. I have no reproaches to heap on your head, for I know you are honest. I must fight this battle alone. I should have bet every cent in the world three

weeks ago that no hypnotism in the world could have made you turn on me.

If this man (Hummel) who sat upon that chair and perjured himself in your presence—if he had kept away with his smooth tongue and professional tricks and devices, poor little Evelyn would not have turned away from her the man who loved her and who was ready to sacrifice his life for her. She would not have broken the vow she pledged.

I am changed, but not in truth or faithfulness. Alone I cannot settle down. I am not responsible now, so I am frivolous and not at all as I was before. I can do no more than make the best of it, which was far from bad except for regrets—every loss, every illness, every opportunity missed—all these together are but as the raging sea of water to a battling ship. Everything is trivial to me now.

Pages neither of poetry nor oratory contain a more simple story of anguish than the one of this young man, seeing the object of his affections won from him by this man who had wrecked her life. All was lost to him, and the world appeared to him flat. He had nothing to live for—all the ambitions of his life were gone, and whatever could happen was but as a glass of water in the sea in which a ship was battling. In this condition he left New York in November for his mother's home in Pittsburg.

Up to that time Harry Thaw had been a man of cheerful and sanguine temperament. His mother saw a change had come over her son the moment he crossed the door. His manner was entirely different. He had

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an absent-minded look, as if he had lost everything. She told how she then, in the dark of night, had found him sitting up on his bed fully dressed—how she questioned him. "It's no use," he said, "I cannot sleep." The mother was allowed to peep into the heart of the suffering son by the story she brought out, little by little.

But even then he would not tell the girl's name, and then you remember the scene in the church and, while the organ pealed, how the sob broke from his throat and the tears gushed from his eyes, and how, when his mother asked him why he had sobbed, he answered: "But for *him* she might have been with us to-day." That was his condition. That one thing was ever in his mind. He could not, he would not, forget—great, courageous, indomitable man, who believes he has a mission to fulfill, to make one more effort to rescue her from the hands of vice into which Stanford White had lured her. He came back to New York and met her in a drug store, where the artificial means were found to supply the beauty she possessed, and he said: "Oh, these things are not for you." And you remember how, afterwards, they met as mere acquaintances in the street and passed the time of day.

Here again no words of mine could supply the picture that is furnished by the words of the wife herself as they fell from her lips on the stand. She says that when they met at the Café Beaux Arts:

I said I was going to a play, and Mr. Thaw said I looked bad and wished I would not go to the play. He would pay

me my salary I would lose—that he would send it through a third party. He begged me merely for the sake of my health not to go to the theater. But I said that I would go; that I had no other means of livelihood.

You remember they met a couple of days afterwards and he asked her to tell him of the stories that had been told about him. "I told him then," she said, "all they had said about him and that he was addicted to morphine and had many other vices, and he said he could easily understand that they had made a fool of me. He urged investigation."

She could find nothing in the stories. "I never lie," Thaw told her. "You never told me a lie in your life," she said. And while she was investigating these stories spread by Abraham Hummel for the protection of Stanford White, he told her all these things had been disseminated by Stanford White and his friends. When she discovered that these awful stories were untrue—learned that they had been disseminated by Stanford White and Abe Hummel for the purpose of separating her from the man who loved her and whom she loved—hope began once more to dawn upon him.

The hour of reconciliation was at hand. The barriers which had been set up between them were one by one falling to ruin and the two persons whom God and Nature had intended to be united were drawing nearer to each other.

That night in December, 1903—that night might have been, gentlemen, the beginning of another tragic

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chapter in the life of this poor child—the night when Stanford White in the lofty room in the tower where he had spread a banquet in celebration of the birthday of his child victim—the night in which he was to lure her once again, if possible, and bring her under his influence—the night in which, amidst the glare of the lights and the splendor of the treasures, he had planned to renew his power over the child victim—on that night there came to the little girl one who snatched her from the clutches of Stanford White—snatched her from the snares set for her—from the man whose very existence had been a menace to her and the curse of his whole life.

He folded her in his arms; he snatched her away from the old man. And that night began another series of events. It was on that night that Stanford White, baffled, his plans disconcerted, went about that theater in Madison Square hunting for his victim, and, finding her not, pistol in hand and with impotent rage in his heart, threatened to shoot the man who had baffled his schemes. And that night Harry Thaw, as he walked the streets of New York, found that his footsteps were being dogged by hired malefactors in the pay of Stanford White, and he learned in a few days of the threat of Stanford White and his hirelings. From that moment the dread of his life being taken away by this man added a grim specter to the one that already had been haunting him. And he from that time, as she relates to you, began to think himself persecuted by Stanford White. The scurrilous stories, circulated in news-

papers and elsewhere, he attributed to him. He expressed apprehensions of personal violence and impressed upon her mind that if he died she was to have his death investigated and to spare no pains. He told her he would probably be set upon in New York by some one in the employ of Stanford White. He said that the "Monk Eastman" gang had been hired to kill him, and the fear of death constantly haunted him.

Consider in this connection the strange clause in his will—if you will not take it from Evelyn—the strange clause appropriating the sum of fifty thousand dollars to be devoted to the investigation of his death, should it occur.

In 1904, in the latter part of the year, or the beginning of 1905, a second operation was performed on Evelyn. And when she was convalescent, the man who for two years had loved her, the man who had told her sad story to his mother in 1903, who had been refused by her because she thought their union would interfere with his family relations—that man, I say, such was the constancy and fervor of his love, persuaded his mother to come to the little girl whose sad story she knew and whom in her heart she could not but revere. And she came to New York—she, embodiment of all that a good wife and mother means—she came and saw the little girl and assured her that she would be welcome to her home; that no allusion would ever be made to her sad story. And the little girl, who had resisted the pleadings of the man who had loved her and because she loved him, could not resist the

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pleadings of the mother, and on April 4, 1905, they were united at the altar, when he in return for her love pledged to her before Almighty God that he would protect her. And these two were then made one.

And after a trip westward they returned to the shades of Lyndhurst, the old family homestead. They were happy in each other's love, happy in each other's confidence, forgetting the past.

But social or business exigencies would not prevent them from coming to New York, and one day while riding down one of your streets there appeared the form of the man who had been the cause of so much anguish, and he, though she was the wife of another man, stared at her, and had the audacity to call her by her first name. She went back to the hotel where her husband was and told him what had happened. And he, in his anger, exclaimed: "The dirty blackguard had no right to speak to you—no right to speak your name." And he extracted from her the promise that no matter what happened she would tell him all. "He made me," she says, "promise that if I ever saw Stanford White I was to come home and tell him of it."

They next met in New York when she was going to a physician. Their hansoms crossed at Thirty-fourth Street. He stared at her, pulled at his mustache, and stared and stared. She did not speak to him, but looked away and turned into Twenty-second Street. He also turned, and as she ran up the stairs at her doctor's office he followed her. She became frightened, ran down the steps, jumped into a hansom, and drove to

the Lorraine, where she told her husband. "He got excited," she said, "and bit his nails." In May, 1906, not long before the hour which was to be Stanford White's last on earth, this is the story that she related to her husband. She told him that Miss Mae Mackenzie had told her that Stanford White had been to the hospital to see her; that she, Mae Mackenzie, had said to him, "Isn't it nice the way Harry and Evelyn really do care for each other?" and that she said she had found it out, and that Stanford White said: "Pooh! I don't believe it." And Miss Mackenzie had replied: "Oh, yes; it is true. I know it myself, and I think it is so nice," and Stanford White had remarked: "Well, it will not last long. I will get her back." All this she related to her husband. Then, when she told her husband what Mae Mackenzie had told her, he became wild and began to gnaw his finger nails. Did he not have cause to get wild, to lose that reason which in a civilized community one is supposed to stifle?

"I stole her once from her mother, I will steal her now from her husband," Stanford White said. But between him and the consummation of that act there remained the strong arm of that young man to protect her from his snares.

You remember how, at Daly's Theater, Harry Thaw and his wife saw Stanford White in a box opposite, and how, when he saw him, he became enraged. When he looked into those eyes, into which many a young girl had looked before she went down to her ruin, his eyes grew wild, and he just sat there and stared and

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stared at the object of his thoughts. She says, describing another meeting:

At another time, when Harry and I were passing Herald Square in a hansom, we saw Stanford White on the street. Mr. Thaw grew white and his eyes glared. He talked so fast that I could not understand him. He carried on in this way for about fifteen minutes. I believe Harry had a fit then and there. He shook violently. He moaned, and clenched and unclenched his hands, and that was the way he acted when he saw Stanford White.

"One Sunday," said Evelyn, "he was sitting in a chair in my room, and suddenly he began to sob and cry without any warning whatever, apparently gazing upon vacancy." His mind was always on this man. He cried until at last his own wife could not but believe that this subject—the thought of Stanford White—had preyed so on his mind that he had become insane.

The man who had brooded over those pictures of horror for three years—this man would have been more than human if he could have preserved a calmness of reason. Now, gentlemen, place yourselves in the position of this defendant. Recall the time, those of you who have wives, recall the time that you led the one you loved to the altar, and, if possible, do this defendant justice. You remember when the little lady tells you that her husband on this subject had lost his mind—do you remember in this connection the spontaneous exclamation of the friend who, on hearing the shots

Classics of the Bar

fired on the Madison Square Roof-Garden, made the exclamation: "This is the act of an insane man"?

Gentlemen, nothing now remains for me to do but to call your attention to the events of the night of the tragedy. With a view simply of elucidating the great point, fix your attention on this point—that is, the condition of mind of the defendant on that fateful night—you recall that Mr. Thaw, his wife, and two friends were seated at dinner at the Café Martin, a place of public entertainment in this city. The time was summer, the evening doubtless was sultry. Tables had been set upon the balcony, the veranda on the outside for the accommodation of those who desired a cooler spot.

Now, while this party of four were seated at the table, Stanford White, by accident or design, came into the room in which they were seated. He came in through such an entrance that Harry Thaw himself could not see him. After a while White went out on the veranda on the Fifth Avenue side and remained there a considerable time. The wife, seeing him, forbore at the time to call her husband's attention to him, and only when he was gone did she call his attention on paper. She wrote upon it: "The B——" (meaning black-guard) "was there, but has gone out again."

As denoting the condition of mind of the defendant at that time, he turned to his wife and said to her, "Are you all right?" and her answer that she was, mastered every emotion he had in that public place and the incident had no further consequence. Now, you will re-

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member that during the afternoon Thaw had procured four tickets for the performance that was to take place that night at the Garden. He took with him his party, and on the way took along another friend, to whom he gave his own seat. He went about with the busy, nervous activity which characterizes him until he found a seat beside the witness Smith. He sat by Mr. Smith for half an hour engaging in such idle conversation as so-called men of the world indulge in—men whose minds are not seriously engaged in the serious problems of life.

When Thaw saw White he walked quietly and slowly down the aisle until he faced White and then fired three shots. He then slowly and deliberately turned away—and I wish to call your attention especially to this circumstance, apparently slight, but to my mind of the utmost importance, and testified to by the defense. Mr. Meyer Cohen, one of the witnesses, said that as soon as he heard the shots he looked and saw Thaw standing facing the audience with his arms spread out in the form of a cross, a circumstance which has not been dwelt upon by any of the learned experts for the State. Mr. Thaw stood as a priest might have stood after some ceremony of sacrificial offering, saying, "All is over," and dismissing the congregation. He turned his pistol barrel down to indicate to the audience that there was no danger to them.

He then walked slowly to where his wife stood, and when she said, "O Harry, what have you done?" he replied: "It is all right, dearie; I have probably saved

your life." As he said this he stooped and kissed her. When he was disarmed, he said: "He has ruined my wife." When the policeman came, he said: "He has ruined my wife."

I have dwelt upon these acts and declarations of Mr. Thaw at that time to call your attention to the fact that the safety of his wife was menaced by the man who had followed her to the Garden, the same man who had followed her to Dr. Delavan, the same man who had said to Mae Mackenzie that he would get this young wife away from Thaw. What condition of mind must Harry K. Thaw have been in when, walking down the aisle, he turned and suddenly saw the form—the hideous form—of the man who had caused so much unhappiness?

If you have been near death, you know that at such a time the mind travels with the rapidity of lightning. The mind goes back over the past like lightning. Then Thaw, as he looked upon the hideous form of this man, saw the whole panorama of White's life. He saw him making his way into the family where poverty dwelt; saw him laying bare his plans to ingratiate himself; saw him giving the mother money to absent herself from the city that he might perpetrate the deed of shame he had planned; saw him inflaming her youthful imagination; plying her with wine; saw her mind wandering under the fatal drug; saw her losing consciousness; saw her in her shame; saw him next day kissing the hem of her dress; heard his thousand protestations of love; heard her refusing, and saw that chamber in Paris where she told him the story of her wrongs; heard again his many

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proposals to her; saw that terrible night when she had told him her story; saw himself as he walked the floor and cried: "O God! O God!" saw her return to New York; saw her meet this man who had wronged her; saw her about to fall into this villain's hands, and saw himself rescue her from this man. He saw himself again at the altar marrying her; saw her when her mind was poisoned against him by the same man who had ruined her; saw her rescued from the man; went over the happy months he had lived with her in his mother's house; saw this monster and he heard his words, "I will get her back," and he knew not, he reasoned not, he struck as does the tigress to protect her home—struck for the purity of American homes—struck for the purity of American maidens—struck for the purity of American wives. He struck, and who shall say he was not right?

He had appealed to the Pinkertons, to the district attorney, and that night he appealed to God, and God that night answered that cry—the cry of the fatherless child. And God then redeemed the promise He had made thousands of years ago when He said He would hear the cries of the afflicted and that He would make the wives of the oppressors widows and their children orphans.

Ah, gentlemen, what was his condition of mind at that time? Men, judge your fellow-man as ye would be judged. Place yourselves as far as in your power lies in the place he stood.

It is for the district attorney to prove that the defendant was sane, and if he fails to do this he has not

established his case. He must establish that he was sane at the time.

And I ask you not to violate any law, and I ask you to judge by that law which bids you do unto others what you desire others to do unto you.

Send this young man to his death for what he did when goaded into frenzy by the persecution he had suffered? He turned at last as the weakest of created things will turn—as a worm, it is said, will turn against his tormentors—send him to his death for that?

Ah, gentlemen, recall the language of the great book in which is contained the wisdom and religion of the people of old, and I say to you, ‘Is Jonathan to die for working this great salvation in Israel?’ God forbid! Not a hair of his head shall fall to the ground, for he wrought with God on that day.

I now, with all solemnity, leave in your hands the fate of Harry K. Thaw.

The jury were unable to agree on a verdict, and a mistrial was declared. Some time after this, Thaw was tried the second time and found “not guilty on account of insanity.” He was immediately sent to an asylum for the insane.



Drawn by Orson Lowell

THE OBSTINATE JUROR

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Eloquent Perorations

THIS country of ours is now rent by intestine war. All who are conscientious in desiring its honor and perpetuity feel deeply afflicted in contemplating its condition. We are threatened with assault from beyond the sea, and the most peaceful of us know not but that at some near time we may be called upon to lay down our lives for our country. It is not impossible in the affairs of mankind that this great nation may soon be a ruin or an antiquity; that strangers from afar shall come to look upon it, mourning over the fate of a people who had not the ability to protect their liberties. But there never can come a time—unless we do something dishonorable—when the name and reputation of the “American” shall not be known and respected through the generations of men. We could not, however, transmit any such reputation if it should be established in this metropolis and go forth through the whole civilized world as its act that a man twenty-three years of age was taken from the side of his widowed mother and led to a scaffold, the four supports of which were Hatred, Interest, Malice, and Treachery—Justice being pushed aside that she might take no part in the execution; Religion being denied a place in the ceremony, and the superintending demon of the sacrifice being the bloated

and brutal figure of Intemperance.—*James T. Brady in the Trial of Charles M. Jefferds for the Murder of John W. Matthews in New York.*

I HAVE endeavored to analyze the testimony in this case, believing that before you committed yourselves to a verdict you, too, would analyze it. My responsibility ends here. It has been fatiguing to confine myself to facts and not get the relief which comes from even indulging in imagination. I have spoken eleven long hours and it has been very fatiguing. I feel that, however lamely and unfashionably I have done it, I have done the best I could. I have tried to assist you. I have been impressed, and shall be responsible for my opinions all my life.

This case has been the most monstrous in the history of criminal jurisprudence. I make charges against no one man; it is a combination of the serious mistakes of many. This is a hellish tidal wave which rolls forward, and I have set my face against the breaker of hellish iconoclasm. If this hellish wave of brutality rises over me, my last cry, like Warwick's, will be: "Fight on, my merry men, for him."

If you are to yield to the tremendous pressure urged upon you to tear down the rules of law and common sense, then is the only bulwark of American and civilized liberty washed from its foundation. If fanaticism and the testimony of this vile murderer, conducted to the witness stand with such pomp, instead of the calm analysis of the evidence is to govern you, then tell your

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artists to take down from the domes of your court-houses that angel of justice, and to put in her place the diseased form of a hag from hell. Let her blink behind the bandage, only put on to dupe the public; take down the flag represented by the red, white, and blue; the red emblematic of the blood of the Divine Martyr, the white emblematic of the immaculate purity of His spirit and life, the blue representing the skies to which He ascended; and bid the officers lift on high your created, polished, black field of hellish perjury, on which is painted the form of the human tiger.

These figures, it seems to me, are well borne out by the calm consideration of this case. Your Honor, I have done. Gentlemen, I leave my client in your hands for judgment, conscious that you, gentlemen of the jury, are in the hands of God, and no power can harm or mar, hold or control, your verdict. You are the conscience of this nation. Beware that you do not betray it.—*W. W. Irwin in the Harry Hayward Murder Trial.*

GENTLEMEN, you belong to an institution and are representatives of an institution which has a great history and noble traditions. There have been times when juries, for what they believed to be right and truth, have stood up against even the power of the crown, have braved popular prejudices and clamor, and have even disregarded the influence of the bench, sometimes, but rarely, in times past brought to bear upon them. Some of these influences are things

of the past, but there is the influence of prejudice, which may in cases of this kind be often present, and has always to be combated. I have no fear of the influence of the bench. There is no fear my lord will attempt to invade your domain. You are the appointed judges and arbiters in the case. The responsibility will be yours alone, and will be the responsibility of each one among you; for the law in its wisdom has fixed your number so large, that the heated—it might be intemperate, or hasty—judgment of one or two shall not destroy and outweigh the patient, determined, and anxious judgment of the rest. So select is your number at the same time as to preserve to each one of you a sense of individual responsibility; for the verdict which you give shall be by the law the verdict of each one of you. This man, standing as he does friendless and alone, stands almost within the shadow of the scaffold. Can you—will you—ought you—for this is the important point—save him? You ought not, I say, though I am his advocate, if after careful, anxious, and thorough examination and consideration of the facts of this case you come to the conclusion that the finger of duty points sternly, conclusively, irresistibly to a verdict of guilty. But if, after that anxious consideration, a doubt remains—if you feel that there are parts of that evidence, and vital parts, upon which you cannot stand, for they seem to crumble away beneath your feet—then it will be your duty to say, whatever suspicions you have, that the prisoner is entitled to the benefit of the doubt which remains present in your minds, after anxious, solemn—

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I would almost say in so serious a matter, your prayerful—consideration of the facts of the case. The law gives him the benefit of the doubt, and justice requires that he should have it. I make no appeal to you for mercy. Yours is not the prerogative of mercy; but you are administering a law which is itself merciful; which esteems it to be a less grievous thing that the guilty should at times escape than that the innocent should perchance suffer. In the spirit of that law, with all the earnestness of which I am capable, I appeal to you on behalf of the prisoner.—*Charles Russell in Defense of Patrick O'Donnell.*

I NOW, gentlemen, with entire confidence, thanking you for your kind attention, submit the case of my client to you. I have done my duty. Because Richard Croker performed his duty, he has been immured within the four walls of a prison. For this, the honest discharge of duty, day after day, night after night, week after week, has his incarceration been prolonged. Soon you must perform your final duty in this memorable case. God grant that the time may never come when any of you, for the honest, fearless, faithful performance of duty, shall suffer martyrdom as has this defendant! At all times, in all emergencies, on all occasions, the only safe guide in all the varied relations, the ever-shifting scenes of life, is the God-given monitor within every man's bosom—conscience. This side the grave there is no luxury of enjoyment like that of conscience clear and a sense of duty performed. Bet-

ter, far better, imprisonment within the walls of yonder dungeon than the doom of a man who on the witness stand rolls perjury like a sweet morsel under his tongue.

Because this defendant, when dangers thickened and ruffian violence was let loose, performed only his duty, he has been torn from his family and cast into prison. Gentlemen, I envy you the happy moment so soon to arrive when your verdict will restore him to that young and loving wife who so recently gave birth to a son—her first child—when the idol of her affections, the partner of her joys and sorrows, was kept from her by bolts and prison bars.

Ah, gentlemen, you can never know the suffering, the agony, this young husband, in silence in his prison cell, endured, when, in her critical condition, he feared her spirit was hovering between life and death, and he was thus debarred the dear privilege of ministering to her wants and watching over her with that tenderness and devotion inherent in his nature. Well might he exclaim:

Give sorrow words; the grief that does not speak
Whispers the o'erfraught heart, and bids it break.

His father, aged and blind, awaits the deliverance of this defendant. Whoever has watched this trial cannot fail to discern his innocence. Throughout the entire evidence the truth of this defense is

So well appareled,
So clear, so shining, and so evident
That it *must* glimmer through a blind man's eye.

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Gentlemen, only the defendant is lacking to complete the family group. The loving wife—the young mother—the infant son, await the coming of Richard Croker. The lesson taught by your verdict will sink deep in the public mind. Let it be known and read of all men, let it be everywhere understood, that, come what may, a New York jury dare, and under all circumstances *will*, do their duty.—*Henry L. Clinton in the Trial of Richard Croker for the Murder of John McKenna.*

GENTLEMEN of the jury, the district attorney has invoked your loyalty. Loyalty is a word that does not properly belong to the lexicon of republics, but if it does belong to the lexicon of republics, it means the faithfulness of the citizen to the supreme power of the republic. What is the supreme power of the American Republic? The Constitution of the United States, and the laws in pursuance of that Constitution. The loyalty of the Austrian is due to the successors of the Cæsars; the loyalty of the Englishman is due to the Queen; the loyalty of the Frenchman is due to Napoleon; but the loyalty of the American citizen is due to no mortal man; but due to the spirit of human liberty, incarnate in the Constitution of the United States. Be loyal to that. Be loyal to the law. Above all things, be loyal to yourselves, and do your duty. "A feeling of duty performed," as has been said by a great man, "will follow you through the world; but a feeling of duty unperformed will pursue you with the lash of affliction wherever you may go." All evils that are

physical can be avoided; but evil that comes from the conscience, when it arraigns us day by day, cannot be fled from. "You may take up the wings of the morning, and flee to the uttermost parts of the earth"; but there is neither rock nor corner in which you can hide yourselves from it. Go forth then, gentlemen, from your jury box with a conscience free and unembarrassed; a conscience that will say to you in all time to come: "You have done your duty." Gentlemen of the jury, I invoke for the prisoner not your mercy, but your most deliberate judgment. There has been blood enough in this case. No man can measure with larger dimensions than myself the enormity of the crime which was committed in the murder of Abraham Lincoln. Already four have been hanged, and others suffer punishment, some for a term of years, and some for life. I repeat, there has been blood enough. Think, gentlemen, of what disasters have fallen upon this young man. Three years ago, within the limits of the city, there was a quiet wedding. Around the hearth was gathered a happy band. A mother blessed it with a mother's love. Her gentle daughter, budding into womanhood, gave to the scene the sweet hues of her devoted smile. Beside her sat a brother, just bursting into the promise of the man. Think, gentlemen, what has transpired since that night. The bright fire is quenched and gone, the hearth is desolate, the mother sleeps in a nameless, felon's grave, the daughter drags out a weary life with a broken heart, and the son is before you pleading for his life. But, gentlemen, as I have said, duty per-

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formed must be with you ever. If he is guilty, convict him; if he is innocent, acquit him. May the eternal God so guide your judgments and enlighten your convictions that the remembrance of this day and the day of your verdict may hereafter and forever be a sweet and pleasant recollection. I thank you, gentlemen, for your kind attention.—*R. T. Merrick in the Trial of John H. Surratt for the Murder of Abraham Lincoln.*

GENTLEMEN, this is not merely a struggle for liberty—not merely a struggle for life—we battle for *character*, without which life is but a withering curse; life without character is as the body after the soul has fled.

It is as if the dead could feel
The icy worm around them steal,
And shudder, as the reptiles creep
To revel o'er their rotting sleep,
Without the power to scare away
The cold consumers of their clay.

The future of Emma Augusta Burdell not alone hangs upon your decision. Five children—as bright jewels as ever studded the diadem of woman's pride—must share her glory or infamy. Your verdict must illumine their future with the serene and hallowed light of innocence, or shroud it in darkness darker than death. Must her little sons receive naught but a legacy of shame? Must it be told them when they grow to manhood that their mother was deluged in crime, that

their sisters were monsters of iniquity, that what should have been the temple of domestic purity was but the charnel house of moral death? Ah, better for those sisters that the stiletto, bathed in their heart's blood, should record the death of the body than that your decision should appear as a moral guillotine to sever the vital principle of integrity from their being—aye, a hundredfold better, than that your verdict should be to them an index finger upon the guideboard of life's pathway, pointing to the grave of all their hopes!

When listening to the eloquence of the district attorney, to his reference to ancient and modern classics, to ancient and modern history, to the sketches he drew of desperate women, I remembered that in those times there existed a crime which sapped the very foundation of law—a crime which festered and gangrened in the God-defying action of those into whose hands for a time was committed the administration of public justice—a crime so baleful in its consequences, so towering in guilt, as to almost bury in insignificance every other offense—that crime was *judicial murder*! It existed when juries convicted of capital offenses in violation of law and in defiance of evidence. Thank God, those days have passed! I have no fear that you will attempt the restoration of that crime, notwithstanding the manner in which the district attorney has conducted the prosecution.

Gentlemen, I know the defendant has nothing to fear from you, the chosen ministers of the law, armed as you are with the sword of justice to prevent the success of

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perjury and the execution of designs festering in malignant hate. You will rejoice that duty does not require—but forbids—you to throw over my client, her family—one and all—the mantle of infamy whose black and cumbrous folds would envelop and entangle them in all the varied windings of the labyrinth of life. You will rejoice in the opportunity to vindicate the widow and the fatherless, to show that in a court of justice, come what may, their rights shall be protected. When the time shall arrive—as it will speedily—for you forever to end this case, I venture to say the pleasantest duty which ever devolved upon you will be to pronounce a fearless and truthful verdict of *Not Guilty*.—*Henry L. Clinton in the Cunningham-Burdell Murder Case.*

GENTLEMEN, in the middle of the fourth month we draw near to what has seemed to be an endless labor. While we have been here, events have transpired which have roused national ambition, kindled national resentment, drawn forth national sympathies, and threatened to disturb the tranquility of empires. He who, although He worketh unseen, yet worketh irresistibly and unceasingly, hath suspended neither His guardian care nor His paternal discipline over ourselves. Some of you have sickened and convalesced. Others have parted with cherished ones, who, removed before they had time to contract the stain of earth, were already prepared for the kingdom of heaven. There have been changes, too, among the

unfortunate men whom I have defended. The sound of the hammer has died away in the workshops of some; the harvests have ripened and wasted in the fields of others. Want and fear and sorrow have entered into all their dwellings. Their own rugged forms have drooped; their sunburned brows have blanched, and their hands have become as soft to the pressure of friendship as yours or mine. One of them—a vagrant boy—whom I found imprisoned here for a few extravagant words, that, perhaps, he never uttered, has pined away and died. Another, he who was feared, hated, and loved most of all, has fallen in the vigor of life,

hacked down,
His thick summer leaves all faded.

When such a one falls amidst the din and smoke of the battlefield, our emotions are overpowered, suppressed, lost in the excitement of public passion. But when he perishes a victim of domestic or social strife, when we see the iron enter his soul and see it day by day sinking deeper and deeper until nature gives way and he lies lifeless at our feet, then there is nothing to check the flow of forgiveness, compassion, and sympathy. If, in the moment when he is closing his eyes on earth, he declares: "I have committed no crime against my country; I die a martyr for the liberty of speech, and perish of a broken heart"—then, indeed, do we feel that the tongues of dying men enforce attention like deep harmony. Who would willingly consent to decide on the guilt or innocence of one who has thus

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been withdrawn from our erring judgment to the tribunal of eternal justice? Yet it cannot be avoided. If Abel F. Fitch was guilty of the crime charged in this indictment, every man here may nevertheless be innocent; but if he was innocent, then there is not one of these, his associates in life, who can be guilty. Try him, then, since you must—condemn him, if you must—and with him condemn them. But remember that you are mortal and he is now immortal; and that before that tribunal where he stands you must stand and confront him, and vindicate your judgment. Remember, too, that he is now free. He has not only left behind him the dungeon, the cell, and the chain; but he exults in a freedom compared with which the liberty we enjoy is slavery and bondage. You stand, then, between the dead and the living. There is no need to bespeak the exercise of your caution, of your candor, and of your impartiality. You will, I am sure, be just to the living and true to your country; because, under circumstances so solemn, so full of awe, you cannot be unjust to the dead nor false to your country nor to your God.—*William H. Seward for the Defendants in the Michigan Railroad Conspiracy Case.*

NOW, may it please the Court, I have concluded. I want to say that I have briefly presented this case as it appears to me in its general outlines. Such a trial as this has never, to my knowledge, taken place in the history of the world. It seemed to my mind that this case had hardly opened with the testimony of Cap-

tain Higginson before it commenced to totter, and from day to day its visionary fabric has dissolved from view. When Captain Cook, their last witness, was put upon the stand, the entire structure collapsed, and now, after the witnesses from our own ships and the gallant captain and crew of the *Oregon* and Admiral Schley have narrated their unvarnished tale, the whole tenement, with all of its compartments, from its foundation to its turret, has disintegrated and lies like a mass of blackened ruins.

It has taken three years to reveal the truth. There is not a single word that has fallen from the tongue of a single witness, friend or foe, that casts the shadow of a reflection upon the honored name of the hero of Santiago. He has never claimed the glory of that day. Let it be known he has never claimed the glory of that day. No word to this effect has ever gone forth from him to the American people. The valiant Cook, the heroic Clark, the lamented Philip, the intrepid and undaunted Wainwright, and all the other captains and every man at every gun, and every soul on board of every ship, are equal participants with Admiral Schley in the honor wrought upon that immortal day. We cannot strike his figure down standing upon the bridge of the *Brooklyn*. Says Boatswain Hill, "Every head was bowed but his as the Spanish shot and shell fell thick and fast," and sent the lifeblood streaming from young Ellis, this gallant martyr for his country's cause.

We cannot strike him down. "You may assassinate me, but you cannot intimidate me," said the Irish

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patriot Curran as he turned upon his accusers and traducers. There he stands upon the bridge of the *Brooklyn*, his ship, almost alone, receiving the entire fire of the Spanish foe, until the *Oregon*, as if upon the wings of lightning, sped into the thickness of this mortal carnage. "God bless the *Oregon*!" was the cheer that rang from deck to deck; and on they went, twin brothers in the chase, until the lee gun was fired from the *Christobal Colon* and the despotic colors of Spain were swept from the face of her ancient possession. "Well done; congratulate you on the victory," was the streamer that was sent from the halyard of the *Brooklyn*, and from that day to this no man has ever heard from Admiral Schley the slightest whisper or intimation that he has usurped the glory of that imperishable hour. The thunders of the *Brooklyn*, as she trembled on the waves, have been discordant music to the ears of envious foes, but they have pierced with a ringing melody the ears of his countrymen and struck a responsive chord at the fireside of every American home. And what is more than all which has been revealed in this case, as matchless as his courage, and as unsullied as his honor, is his beautiful character and the generous spirit that animates his soul and the forgiving heart that beats within his bosom.

Yes, we cannot strike him down. Erect he stands as the McGregor when his step was on his native heather and his eye was on the peak of Ben Lomond. His country does not want to strike him down, nor cast a blur upon the pure escutcheon of his honored name.

For three long years he has suffered, and now, thank God, he believes that the hour of his vindication has come. With composure, with resignation, with supreme and unfaltering fortitude he awaits the judgment of this illustrious tribunal; and if that deliverance comes, he can from the high and exalted position that he occupies look down upon his traducers and maligners and with exultant pride exclaim: "I care not for the venomous gossip of clubs and drawing-rooms and cliques and cabals, nor for the poisoned shafts of envy and of malice! I await, under the guidance of Divine Providence, the verdict of posterity."—*Isidor Rayner Before the Court of Inquiry in Behalf of Admiral Winfield Scott Schley.*

AND now I am about to close this case on the part of the prisoner. I claim that we have thrown so much doubt about the sanity of the prisoner as to entitle him to an acquittal. It now becomes the duty of the prosecution to prove his sanity beyond all doubt. But the condition of the prisoner, from the time he left New York until the night of the homicide, is enough to show his insanity at the moment of firing the shot. If it is doubtful whether he was sane or insane, he is entitled to an acquittal.

If insane, then, of course, the law does not tolerate the idea that he should be killed; and, if it is doubtful whether he was sane or insane (and that it is so in this case no disinterested man can possibly fail to declare), then, by the laws of the land, it is his right to be ac-

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quitted. But you are to hear now, in addition to the observations of my brother Sedgwick, the final argument for the prosecution by the distinguished counsel who is to follow me and who will have the benefit of those "last words" which it is supposed make so decided an impression upon the intellects of jurors as of others. I have a great admiration for the abilities of that gentleman. I know that he is very zealous in this case. I know that he enters into it with the same spirit and to the same degree as the other counsel who has addressed you on that side. But I have no fear, gentlemen, that any kind or any amount of eloquence, or any dissertation upon any branch of this case, can have the effect of swerving you from a just view of it, or of inducing you to condemn by your verdict what you know in your hearts, before God, would have been your own conduct under the same circumstances.

Yes, gentlemen, you are to be addressed in an elaborate and powerful appeal demanding the life of General Cole, as a sneaking and deliberate assassin. You are to be asked to say that within a month or two, just after the blossoms shall have come upon the trees, just before their leaves begin to change and they put on the beautiful drapery of the American autumn, his children, who are motherless, when they go to his grave, shall stand over a mound beneath which reposes an executed murderer; and if you yield to that call, when you go to your homes and, under God's blessing and with grateful hearts, sit down to take your first meal under your own roofs, after this trial, you are to feel that you have as-

sisted in making that pilgrimage of those children to the grave of their father a terrible affliction. Gentlemen, if it should be so, then, according to the eloquent language of my friend Mr. Hadley, the general's countenance might blanch, though it never did in battle; his steps might tremble under nervous excitement, or he might say, like a soldier whom during the Rebellion I undertook to save from his fate, but who was executed on Governor's Island at the age of thirty-six years, "It will only be a muscular struggle, after all," and died firm and fearless.

It may be so, gentlemen, but if he does ascend the scaffold, he will have that to console him which no one can take away—he can say: "As I fought to protect my country, so I fought to protect my home. As I fought to preserve the honor of this native land of mine, so I fought to preserve my own and that of my family, to keep for my children an honorable position and an honorable name." And he may add: "In the blow that I struck and for which I suffer, I strengthened the security of the homes of my fellow-citizens as much as I did when I struck against the enemy who would have laid waste our country." And in view of his soldier's life, and all his life, he may say, in the language of one of the poets:

Whether on the scaffold high
Or in the battle's van,
The fittest place for man to die
Is where he dies for man.

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And so if he dies, he will die for you, and for all of us. But, gentlemen, the hand never was made that would pinion to his side the right arm which wielded the sword so long and so bravely for his beloved and imperiled country—that hand does not exist on earth. He will go out of this court room, I trust in God, under the sanction of your verdict, on a fair discharge of your duty, with all the honor he earned and had when he answered to the call of the country in 1861, and fought its battles at subsequent periods, while it had any to be fought.—*James T. Brady in Defense of General George W. Cole for the Killing of Hiscock.*

GENTLEMEN, you have no doubt that the mind of the defendant was affected. How long had he suffered in silence? How often had he fled to a hiding place when he felt the dread symptoms approaching? Away in the fields, out in the woods, from human sight, with no eye but God's to watch his struggles. How he cried when, at last, in the field, his brother discovered the infirmity; how he charged him with secrecy; how he wandered at night through that old house; how he complained "O would that the night were gone; I can sleep no more!" All this is part of the history of the case. How like that most terrible picture of madness in all antiquity which Suetonius has painted of the crazed old Roman emperor wandering at midnight through the deserted halls of the palaces of the imperial Cæsars. Do you doubt that the disease is epilepsy? Even Dr. Green, upon the other side, has said he didn't know

what to call it if it wasn't that. Dr. Curwen also says it was epileptoid in its character. Dr. Junkin, with *his* science, calls epilepsy a symptom and not a disease; but then he doesn't believe in these books of authority; he stands, as he says, upon common sense; these men are welcome to their opinion; he will hold to his. And when he is asked to tell us what this malady is, he plays *Hamlet* in high tragedy before the Court, and answers: "That's the question!" Excellent man! Take him to the bedside of the patient. He can tell him the sickness is not typhoid fever; it is not smallpox; it is not bilious cholera; but when the sufferer anxiously asks the nature of his affliction, he receives for satisfaction: "Ah! that's the question." But Dr. Seip, whom we call here, is not an interested witness; he appears in his official position; he is the physician of the prison. Night and day, when he was called, he saw the defendant in his cell; saw him with the spells upon him; saw him when they had passed away. Not another doctor here saw him except as he sat in court beside his counsel. With the opportunity for watching, the opportunity for examination, Dr. Seip was not deceived. He says it is epilepsy. You have heard what tests were applied in the presence of the warden and others in the jail. He never knew until he heard it here what branded those marks upon his face. When these excruciating tests were used, he never quivered to the touch. All the symptoms; the foolish talk; the gritting teeth; the hand clenched upon the thumb; the fixed eye; the confused look; the knife; the sealing wax; the burning lamp; all—

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all were unhappy prologues to the swelling act of this imperial theme. And yet Dr. Green has thought the tests insufficient. He was not able to suggest another, but was sure he could stand a burning lamp applied to the sole of the foot and make no motion. He says martyrs have placed their arms in fire and held them there until consumed. I have heard of Fox's martyrs before. This is the last edition with improved revisions by one of them. I think he would find that one test alone satisfactory. If not, we might roast him upon a gridiron, and let him sing the song of St. Lawrence:

This side enough is toasted;
Then turn me, tyrant, and eat. .
And see whether raw or roasted,
I am the better meat.

The proof of epilepsy does not depend upon the testimony of Dr. Seip and the warden and witness in the jail. We have shown a correspondence of symptoms for four years before. To say he feigned epilepsy in prison for his defense is to say that for two years he meditated the crime; that he anticipated this defense; that he, this boy, studied the mysteries of science, learned the symptoms of disease, and then practiced the simulation. We have called for proof the living members of the family. Ah, more! we have invoked the testimony of the dead. We have called from the grave that father and mother, to the bar of this court, to plead with their living voice and their skeleton fingers for justice to that forsaken son. His sisters have said

that when the family learned of this disorder the strict injunction was laid upon them all, never to tell it abroad. "For then the young people would think he was not right and would not go in his company any more." How like that tenderest touch in all the fictions of the classic tongues, when Andromache stood upon the towers of Ilium and saw Hector dragged by swift horses toward the hollow ships of the Greeks! . . . The husband, the father, the hero is gone! They all knew of his disease; they sought to shield him from the rough approaches of the world. He, with his ambition wasted, with his mind weakening, can sleep no more. "Would that the night were gone!" I repeat his prayer.

I have finished my part of the case, yet I am loath to close. His life is in your hands. If you find him guilty, the doom which comes to him blasts the living and the dead. But I feel it is safe to leave him to you. —*Henry W. Scott in Defense of Allen C. Laros, Charged with Poisoning to Death His Father.*

GENTLEMEN, you ought to remember that in this case you are absolutely supreme. You have nothing to do with the supposed desires of any men, or the supposed desires of any department, or the supposed desires of any government, or the supposed desires of any president, or the supposed desires of the public. You have nothing to do with those things. You have to do only with the evidence. Here all power is powerless except your own. Position is naught. If the defendants are guilty, and the evidence convinces

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you that they are, your verdict must be in accordance with the evidence. You have no right to take into consideration the consequences. When you are asked to find a verdict contrary to the evidence, when you are asked to piece out the testimony with your suspicions, then you are bound to take into consideration all the consequences. When appeals are made to your prejudice and to your fears, then the consequences should rise like mountains before you. Then you should think of the lives you are asked to wreck, of the homes your verdict would darken, of the hearts it would desolate, of the cheeks it would wet with tears, and of the reputations it would blast and blacken, of the wives it would worse than widow, and of the children it would more than orphan. When you are asked to find a false verdict, think of these consequences. When you are asked to please the public, think of these consequences. When you are asked to please the press, think of these consequences. When you are asked to act from fear, hatred, prejudice, malice, or cowardice, think then of these consequences. But whenever you do right, consequences are nothing to you, because you are not responsible for them. Whoever does right, clothes himself in a suit of armor that the arrows of consequences can never penetrate. When you do wrong, you are responsible for all the consequences, to the last sigh and the last tear. If you do right, Nature is responsible. If you do wrong, you are responsible.

You were told, too, by Mr. Merrick that you should have no sympathy; that you should be like icicles; that

Classics of the Bar

you should be godlike. A cool conception of deity! In that connection this heartless language, as it appears to me, was used:

Man, when he undertakes to judge his brother-man, undertakes to perform the highest duty given to humanity.

Good! He should perform that duty without fear, without prejudice, without hatred, and without malice. He should perform that duty honestly, grandly, nobly. I read on:

Inclosed within the jury box or on the bench he is separated from the great mass of mankind——

Then you should not pay any attention to the opinion of the public. If you are separated, you should not be dominated by the press. If you are separated, you should not be disturbed by the desires of anybody. But he continues:

and sentiments of brotherhood die away.

About that time you would be nice men:

Standing above humanity and nearest God, he looks down upon his fellows, and judges them without any reference to the sorrow his judgment may bring.

That is not my doctrine. The higher you get in the scale of being, the grander, the nobler, and the tenderer you will become. Kindness is always an evidence of greatness. Malice is the property of small souls. Who-

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ever allows the feeling of brotherhood to die in his heart, becomes a wild beast. You know it and so do I:

Not the king's crown nor the deputed sword,
The marshal's truncheon nor the judge's robe,
Become them with one half so good a grace as mercy does.

And yet the only mercy we ask in this case, gentlemen, is the mercy of an honest verdict. That is all.

I appeal to you for my clients, because the evidence shows that they are honest men. I appeal to you for my client, Stephen W. Dorsey, because the evidence shows that he is a man, a man with an intellectual horizon and a mental sky, a man of genius, generous and honest. And yet this prosecution, this government, these attorneys representing the majesty of the republic, representing the only real republic that ever existed, have asked you, gentlemen of the jury, not only to violate the law of the land, they have asked you to violate the law of nature. They have maligned mercy. They have laughed at mercy. They have trampled upon the holiest human ties, and they have even made light of the fact that a wife in this trial has sat by her husband's side. Think of it.

There is a painting in the Louvre, a painting of desolation, of despair and love. It represents the night of the Crucifixion. The world is represented in shadow. The stars are dead, and yet in the darkness is seen a kneeling form. It is Mary Magdalene with loving lips and hands pressed against the bleeding feet of Christ.

The skies were never dark enough nor starless enough; the storm was never fierce enough nor wild enough; the quick bolts of heaven were never lurid enough, and the arrows of slander never flew thick enough to drive a noble woman from her husband's side. And so it is in all of human speech, the *holiest word* is WIFE.

And now, gentlemen, I have examined this testimony. I have examined every charge, not only in the indictment against my clients, but every charge made outside of the indictment. I have shown you that the indictment is one thing and the evidence another. I have shown you that not one single charge has been substantiated against John W. Dorsey. I have demonstrated to you that not one solitary charge has been established against Stephen W. Dorsey—not one. I believe that I have shown you that there is no foundation for a verdict of guilty against any defendant in this case.

I have spoken now, gentlemen, the last words that will be spoken in public for my clients, the last words that will be spoken in public for any of these defendants, the last words that will be heard in their favor until I hear from the lips of this foreman two eloquent words—*Not Guilty*.

And now, thanking the Court for many acts of personal kindness, and you, gentlemen of the jury, for your almost infinite patience, I leave my clients, with all they have and with all they love and with all who love them, in your hands.—*Robert G. Ingersoll in the First Star Route Trial.*

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HERE, gentlemen, I pause to confess my utter incompetency, my absolute inability, to define to you what there was in the strange fascination this man exerted over this woman. Counsel has described him as a "specimen of magnificent manhood, standing over six feet in stature and his chest expanding like a gladiator's, strong in the vigor of his physical manhood." This man trying all these strange arts of extortion and blackmail—it would seem to us, gentlemen, that he could have found some nobler occupation. Still we have it. There was the fascination; what brought it about, you don't know. What it was, you don't know; what explanation I may advance cannot be expressed in words. Yet it seems to be the conclusion of Miss Fitzgibbons, the aunt, that because there was four and a half, or possibly five, years' difference in ages, Mrs. McDonald being the senior (they say there was twelve years' difference in their ages), such shows hers was the influence over him, not his over the woman. The counsel for the State dwell much on this. Gentlemen, there is a presumption that a woman should be younger than a man if loved by him, and the presumption that if a man has only more years than a woman he is wiser and more mature; and, likewise, the presumption that if she is younger, she knows less and is less influential upon his character. You may have seen a boy of eighteen or nineteen with better judgment and more mature than a woman of twenty-five; but, gentlemen, a woman at twenty-five is more serious than a man at forty, often more commanding in intelligence, more

influential in matters of women and men. Maturity is a matter of experience. You have an illustration in our orchards—you have seen a tree in the springtime bud forth its blossoms and bear its fruit, while another tree would not yield its fruit until the autumn. It is so with mankind. A woman's heart may be younger than her years, and a man's heart much older. It is but just to say we do not understand these things. They are different in each life; and, to each man and woman apart, their personal experience is their peculiar history. A man may be younger in years and yet in the life of the world older than a woman who may be senior to him in age. It is too often true that a woman much younger than a man is much older in the feelings of nature and in the sense of responsibility. The established fact exists in the recorded experience of the world that the irresistible affections which spring up in the human heart are neither directed by the world's custom of demanding the woman to be the junior, nor controlled by the man merely that he is senior. These impulses spring from conditions into each life so apart from the understanding of any other that they are beyond the explanation of those who are the objects of these affections, or the victims of their violations.

We contemplate for a moment the illustrations of the women of beautiful judgment and exquisite sentiment who, senior in years, have found it impossible to resist the attractions of men junior in point of age, but superior in the strength of commanding personality. Once the woman's affection has been secured and sur-

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rendered to the object of its adoration, it is helpless against assault upon its confidence. This though the years may be mature and multiplied with events of tried experience. She is as defenseless to the encroachments of deception as though the subject were in the tender budding of early youth, and feeling its first advent of a confiding love. Contemplate Mary Queen of Scots: her high, exalted position, her superior years, her point of vantage—none, nor all, saved her from the fascinations of Darnley. He was her junior in years but superior in the strategy of love. He so involved her heart in its adoration and obedience that it led to the death of the one, the disgrace of the other. Nor was the great Queen Elizabeth exempt from similar intrusions upon her senses by the commanding personality of Essex and the exquisite insinuations of Leicester. Literature abounds in instances so interesting that they cannot fail to attract us when we turn about to recall examples which serve either as excuse or as precedent for life's conduct in each day and each existence. George Sand—the woman of masculine intellect and flaming genius, who left behind her immortal works—defining the philosophy of the human heart and delineating the weaknesses of its confidences, yet succumbed to the desperate advance of Alfred de Musset, the Byron of France—the poet to the scholar of the academy as he was the singer to the woods and the birds of Fontainebleau. His sister protested to George Sand that she had ruined this brother and taken advantage of his lesser years. She, too, protested before the world that

which Miss Fitzgibbons in this case, the aunt of the deceased, protests here in this court: that her young relative was rendered less in strength and deprived of the manhood and courage of selection by the insidious influences of a maturer love of an older woman. Yet we know that the commanding genius of Alfred de Musset which attracted to him the light of honor in France, achieved its highest altitudes under inspiration of the affection of George Sand.

There was Johnson, the great scholar of the English, the master arbiter of the fates of the writers of his day, who took as his wife and his companion a woman much older in years and whose youth of sentiment gained for her the opprobrium of frivolous, so tardily matured was her heart, new to affection and old only to what this defendant's had long endured—suffering! Surely we can cast a backward glance and behold the record of the Immortal Law as given us in the Holy Scripture—in the Sacred Testament. Ruth went out to glean in the fields and, though herself a widow of mature years, became fascinated with the presence and bewitched by the manner of Boaz. He was young. He reaped and garnered where his eye beheld her. She returned to her home, confided to her mother-in-law her love for another woman's son. The love of a heart directed her to unbosom to a woman the feelings which are known only to a woman, understood by woman alone. It was Naomi who advised her daughter-in-law to go to the field and from there to the house of Boaz, lie at his feet, that he might learn to see her and know her and find

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from her life and body the youth of love and the inspiration of affection. The union was rewarded of Heaven by endowing the children that came unto it with the inheritance of kings.

It is easy enough here and there to find an instance that seems strange or unusual to us, but, gentlemen, there is nothing new. With all women it is the same. I pause to contemplate her life—this woman. The only evidence in this case that I am warranted in referring to, discloses that she was a woman who never had the companionship of her years; whose life was a burden; whose miseries seemed to multiply. The woman who groped in the dark at night, who lived in the gloom by day—a heart without a companion, a life without a friend. Hers was ceaseless yearning never gratified, a woman alone to all the world, and in the world alone. Yet she was friend to all—the benefactress of every crying need; the helper of the helpless; the comfort to the miserable. She was the one source where poverty plead and hunger was fed.

In her little world—narrow and severe—she never forsook a duty. She seems to have met every obligation to her husband's children. Every natural demand was fulfilled. All the poor who came to her door went away joyous. None of those who came to testify in this court said that she had ever uttered an expression of cruelty even against her traducers—much less doing any injustice in her conduct.

If it shall be said, as it must be admitted, that this

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woman disclosed folly in her confidences, foolishness in her trust, weakness in her devotion, what shall be said of this dead man, living in the city of Chicago, knowing all the arts and wiles of the underworld? This man who, under the roof of his friend, breaking bread at his board, asking courtesies, accepting favors from his hand, yet betrays his benefactor, as he debased his wife, and pollutes the home of this trusting husband! May God be praised that in the jury box of this country and of the splendid State of Illinois we have a manhood so far from all of this that it cannot understand, much less justify, the character that could write itself down thus, as did this man! Behold her feelings, what they were! Counsel will say there are evidences of misconduct to be drawn from her writings addressed to him. See these little poems introduced in this case—these little fragment poems found in this book. How she writes her disappointment of some one, one she has tried so hard “to lift up in the world”; how he has “dragged her down,” and how she “sought to save him.” How she begs, pleads, and on knees bended at night prays to a trusted God for that man’s regeneration. How she drips her tears out in the midnight upon the pillow in grief—that he has fallen so low. The heart loved so dearly, it readily forgave what to the senses was unpardonable. The tears of love washed clean the record of a life’s corruption; and these little scraps of wailing verse were but the confession of a captive soul, crying out in the midnight the heart’s despair at the loss of its ideal—the fall and dishonor of its idol. How she sings

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to him in the groaning moans of sorrowing song! See her verse:

The love that grew into the life,
The love that was meant for another;
The love that was given of a sad wife,
The care and sacrifice of a mother.

Another reads:

Ah, I awake—you have fallen so low,
In the depth so deep;
But I love you—yes, in the pit if you go,
In the deep so steep.

We, gentlemen, have occasion to pause for the moment to contemplate some natural history. There is a strange tree in Central Africa. As related by Sir John Murray, it emits a strange and stifling odor. It attracts the beasts of the field, who, enjoying for a moment its illusive shades, shudder in stupor, then fall in death. The fishes of the water fin their way to its reaching branches, sniff its airs, then float off stark dead. The huntsman or the wary native, though conscious of its deadly peril, cannot resist the enchantment of its languorous charms. They, too, allured to its embrace, delight in the short joy of its fascination, then yield up life in a dream, which means inevitable death. None could resist its attractions, all knew its evil. Yet for one sensation of its insidious joy, give up life itself! Alas! there seems to be in the world about us that same character in mankind that here and there exercises secretly the same strange influence upon those around

and about us. If counsel be right, if the contention of the State be right, that this last letter, and these the poems which were her musings far into the night while her very soul was in agony, should be used against her, what say you, gentlemen? This letter is about his wandering too far, and there is no way to bring him back, and she uses the figure of speech that he was as a racer—the Scripture allegory “The race is not to the swift”—and, my friends, at this time what had she gone through? Mary, the maid, tells you; Mrs. Martin tells you; Mrs. Smith tells you. How can we contemplate it? A woman expecting each night to have a mine explode under her feet, shattering her into atoms; to-morrow to find herself disgraced and ruined; at night dreading the morrow to come; one day free, then a night of troubled sleep, tossing her head about on her pillow of distress—thinking to-morrow it will surely come—the fate will be exploded—would she be saved through the day? another day and another night and the storms pass away; the deluge is passed by; another day of torture, suspense; persecution, temptation, deceit, threats, and fears. Thus her life has gone on. How can we conceive what this woman endured and where is the man that could have lived through it?

It is easy enough in the cool of deliberation to calculate what a man might do or what he should do, but in the midst of severe conflict, involving the most awful consequences, turn either way we might, who shall say what shall be the exact method of procedure and the exact manner of performance? Only those who have

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been in such emergency with its impending dangers hanging over them can appreciate the injustice of those who, in the freedom of contemplation, aided by all that can assist in quiet conclusion, demand that such standard should be applied to that other state of circumstances where no one save those who have been tried can speak, much less should be allowed to judge.

We all remember the philosophy spoken by Richelieu, the great cardinal, in the deep of the night, surrounded by foes without and traitors within, menaced by death and threatened by disgrace and dishonor; any move calculated to be his destruction; and then, at such time, confronted with the tendered reasoning that it was his duty to allow the calm of conscience to direct the dictate of his mind and the course of his conduct. It is in reply to this astounding and inhuman demand that he responds:

O ye whose hourglass shifts its tranquil sands
In the unvex'd silence of a student's cell;
Ye whose untempted hearts have never toss'd
Upon the dark and stormy tides where life
Gives battle to the elements, and man
Wrestles with man for some slight plank, whose weight
Will bear but one, while round the desperate wretch
The hungry billows roar, and the fierce Fate,
Like some huge monster, dim seen through the surf,
Waits him who drops! Ye safe and formal men
Who write the deeds, and with unfeverish hand
Weigh in nice scales the struggles of the trapped
And the cries of the stricken,
Ye cannot know what ye have never tried!

Gentlemen of the jury, I have endeavored to present this case practically, presenting the evidence to you truly, and presenting it to you as fully as my sense of duty dictated to me. When the arguments are concluded, his Honor will charge you that if you have a reasonable doubt you are to give it to the prisoner, and I remind you, "beyond a reasonable doubt," the defendant has proved her case beyond a reasonable doubt.

There may be things in this case which do not appear good to you so far as the proprieties of life are considered, but you are not called to pass judgment upon the imperfections of this miserable woman. You are assembled to say how far her transgressions may be forgiven her and new life and hope held out to her.

Counsel says this woman should be punished. Punished? Can any punishment surpass that which already has fallen upon this homeless, hopeless, helpless woman? The doors of to-morrow are shut upon her; the hand of friendship has been withdrawn; the faces she loved have been averted; the friends departed. She is destined as one who is a plague to walk forever alone, alone forever and forever. To society an outcast; to love a stranger; to the world a woman suspected.

Which one of us would care to have a sister or a woman dear to us go through the life she will face even after freedom? Her days are darkness; her nights are death! For her there is no freedom—all is punishment, all is imprisonment.

Before I bring my remarks to a close, my mind re-

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verts to a beautiful instance of an immortal verdict, and I bring it to you for your acceptance.

The great Persian philosopher Sadi tells of a man and woman who started out together. The days of the man were lighted with sunshine, his nights by stars. He reached the end of his journey at the gates of God and demanded his reward like a victor. Not so the woman. She listened to the allurements of hope and the whisperings of love. She wandered through devious ways, where her hands were torn and her feet were bruised and her heart was made to bleed. She, too, reached the gates at last, not standing, but on her knees, not a victor, but as one vanquished. Her only cry was: "Lord, be merciful!" The great Master called Amalfi, the angel of judgment, to judge her. Amalfi took the woman away. When they returned, her face was radiant, her tears were dry. The Master demanded of Amalfi: "How have you judged her?" He said: "Oh, good Master, as one who was miserable; a woman in agony, whose days have been sadness and whose nights all misery!" And the Master said: "Stand up, come forth and be free, for it is for such as thou that God gave His strength to men that they might take woman by the hand and lead her to where she may hear the Christ say, 'Come unto me all ye that labor and are heavy laden and I will give you rest.' " Then the hosannas of the angels rang out their approval as God proclaimed: "With what judgment ye mete out to men, that judgment shall be meted unto you by your Father in heaven."

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Gentlemen of the jury—my friends—I don't know what your views are in this case. I leave you now. I have spoken the last word that will be given me to speak in behalf of this unfortunate and miserable woman, but one thing I want to say to you: whatever your decision may be, I trust it will console your future steps by day and comfort your pillow by night. And if, when you return home, some woman near and dear to you shall ask, "How did you judge her—as one who was miserable—a woman?" or, if there be a little one who, noting your long absence, shall come close to you and say, "Tell me about it; did you send back to her little boy—his mama?" Heaven grant your answer may be that rewarded with the benediction: "Well done, thou good and faithful servant." Gentlemen, I thank you!—*James Hamilton Lewis in Defense of Dora McDonald.*

Prentiss's Defense of His Friend

IN December, 1838, Judge Edward C. Wilkinson, his brother, Dr. Benjamin R. Wilkinson, and Mr. John Murdaugh, all of Mississippi, were spending a few days at Louisville, Ky. While there, Judge Wilkinson, who was soon to be married, and a tailor of Louisville named Redding had a difficulty one afternoon, caused by some remarks made by the former concerning a suit of clothes which Dr. Wilkinson had ordered from the tailor and in which he was to appear at his brother's wedding.

Later in the evening, Redding and a number of his friends went to the Galt House, where the Mississippians were stopping, and renewed the difficulty. There was a free use of knives and pistols, and two of Redding's companions were killed in the affray.

The Mississippians were promptly indicted for murder. On account of the intense feeling against them in Louisville, the defendants asked for a change of *venue*. It was granted by the Legislature, and the trial took place in March, 1839, at Harrodsburg, Mercer County, Ky.

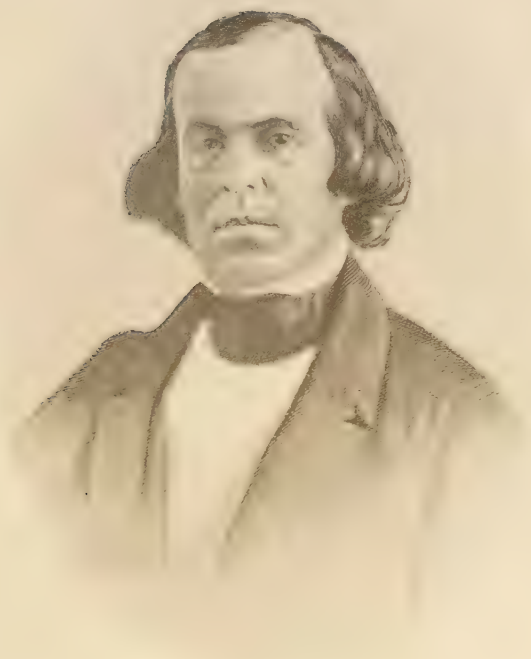
Sergeant S. Prentiss, of Mississippi, a close friend of

Judge Wilkinson, appeared as one of the counsel for the defendants. His speech in their behalf was the most interesting feature of the trial.

Impartial history will yet write the verdict that the world has produced no greater orator than Sergeant S. Prentiss.

Speech of Mr. Prentiss

MAY it please your Honor, and you, gentlemen of the jury, I rise to address you with mingled feelings of regret and pleasure. I regret the occasion which has caused me thus accidentally and unexpectedly to appear before you, and has compelled you to abandon, for a time, the peaceful and quiet avocations of private life for the purpose of performing the most important and solemn duty which, in the relations of civilized society, devolves upon the citizen. I regret to behold a valued and cherished friend passing through one of the most terrible ordeals ever invented to try the human feelings or test the human character; an ordeal through which, I do not doubt, he will pass triumphantly and honorably, without leaving one blot or stain upon the fair fame that has been so long his rightful portion, but through which he cannot pass unscathed in his sensibilities and feelings. The lightning scar will remain upon his heart; and public justice herself cannot, even though by acclamation through your mouths she proclaims his innocence, ever heal the



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wounds inflicted by this fierce and unrelenting prosecution, urged on, as it has been, by the demons of revenge and avarice. Most of all do I regret the public excitement which has prevailed in relation to these defendants; the uncharitable prejudgment which has forestalled the action of law; the inhospitable prejudice aroused against them because they are strangers, and the attempt which has been, and is still making, to mingle with the pure stream of justice the foul, bitter, and turbid torrent of private vengeance.

But I am also gratified; gratified that the prosecution under which my friends have labored, is about to cease; that their characters, as well as the cause of public justice, will soon be vindicated; that the murky cloud which has enveloped them will be dissipated, and the voice of slander and prejudice sink into silence before the clear, stern, truthful response of this solemn tribunal. The defendants are particularly fortunate in being tried before such a tribunal. The bearing and character of his Honor who presides with so much dignity give ample assurance that the law will be correctly and impartially laid down; and I trust I may be permitted to remark, that I have never seen a jury in whose hands I would sooner intrust the cause of my clients, while, at the same time, I am satisfied you will do full justice to the commonwealth.

I come before you an utter stranger, and yet I feel not as a stranger toward you; I have watched during the course of the examination the various emotions which the evidence was so well calculated to arouse in your

bosoms, both as men and as Kentuckians; and when I beheld the flush of honorable shame upon your cheeks, the sparkle of indignation in your eyes, or the curl of scorn upon your lips, as the foul conspiracy was developed, I felt that years could not make us better acquainted. I saw upon your faces the mystic sign which constitutes the bond of union among honest and honorable men; and I knew that I was about to address those whose feelings would respond to my own. I rejoiced that my clients were, in the fullest sense of the term, to be tried by *a jury of their peers*.

Gentlemen of the jury, this is a case of no ordinary character, and possesses no ordinary interest. Three of the most respectable citizens of the State of Mississippi stand before you, indicted for the crime of murder, the highest offense known to the laws of the land. The crime is charged to have been committed, not in your own county, but in the city of Louisville, and there the indictment was found. The defendants, during the past winter, applied to the Legislature for a change of *venue*, and elected your county as the place at which they would prefer to have the question of their innocence or guilt investigated.

This course, at first blush, may be calculated to raise in your minds some unfavorable impressions. You may naturally inquire why it was taken; why they did not await their trial in the county in which the offense was charged to have been committed; in fine, why they came here? I feel it my duty, before entering into the merits of this case, to answer these questions, and to obviate

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such impressions as I have alluded to, which, without explanation, might very naturally exist. In doing so, it will be necessary to advert briefly to the history of the case. My clients have come before you for justice. They have fled to you, even as to the horns of the altar, for protection. It is not unknown to you that upon the occurrence of the events, the character of which you are about to try, great tumult and excitement prevailed in the city of Louisville. Passion and prejudice poured poison into the public ear. Popular feeling was roused into madness. It was with the utmost difficulty that the strong arm of the constituted authorities wrenched the victims from the hands of an infuriated mob. Even the thick walls of the prison hardly afforded protection to the accused. Crouched and shivering upon the cold floor of their gloomy dungeon, they listened to the footsteps of the gathering crowds; and ever and anon the winter wind that played melancholy music through the rusty gates was drowned by the fierce howling of the human wolves, who prowled and bayed around their place of refuge, thirsting for blood.

Every breeze that swept over the city bore away slander and falsehood upon its wings. Even the public press, though I doubt not unwittingly, joined in the work of injustice. The misrepresentations of the prosecutor and his friends became the public history of the transaction; and from one end of the Union to the other, these defendants were held up to public gaze and public execration as foul, unmanly murderers, and that, too, before any judicial investigation whatever had occurred,

or any opportunity been afforded them for saying a single word in their own defense.

I recollect well when I received the first information of the affair. It was in some respectable newspaper, which professed to give a full account of the transaction, and set forth with horrible minuteness a column of disgusting particulars. Instantly, openly, and unhesitatingly, I pronounced the paragraph false, and trampled it under my heels; when rumor seemed to indorse and sustain the assertions of the public prints, I laughed her to scorn. I had known Judge Wilkinson long and well. I knew him to be incapable of the acts attributed to him or of the crime with which he was charged. Not an instant did I falter or waver in my belief. I hurled back the charge as readily as if it had been made against myself. What! a man whom I had known for years as the very soul of honor and integrity, to be guilty, suddenly and without provocation, of a base and cowardly assassination! One whose whole course of life had been governed and shaped by the highest moral principle; whose feelings were familiar to me; whose breast ever had a window in it for my inspection, and yet had never exhibited a cowardly thought or dishonorable sentiment; that such a one, and at such an era in his life, too, should leap at a single bound the wide gulf which separates vice and virtue, and plunge at once into the depths of crime and infamy! Why, it was too monstrous for credence. It was too gross for credulity itself. Had I believed it, I should have lost all confidence in my kind. I would no longer have trusted my-

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self in society where so slender a barrier divided good from evil. I should have become a man-hater, and, Timon-like, gone forth into the desert, that I might rail with freedom against my race. You may judge of my gratification in finding the real state of facts in the case so responsive to my own opinion.

I am told, gentlemen, that during this popular excitement, there were some whose standing and character might have authorized the expectation of a different course of conduct, who seemed to think it not amiss to exert their talents and influence in aggravating instead of assuaging the violent passions of the multitude. I am told that when the examination took place before the magistrates, every bad passion, every ungenerous prejudice, was appealed to. The argument was addressed, not to the Court, but to the populace.

It was said that the unfortunate individuals who fell in the affray were *mechanics*; while the defendants were *Mississippians*, *aristocratic slaveholders*, who looked upon a poor man as no better than a negro. They were called *gentlemen*, in derision and contempt. Every instance of violence which has occurred in Mississippi for years past was brought up and arrayed with malignant pleasure, and these defendants made answerable for all the crimes which, however much to be regretted, are so common in a new and rapidly populating country. It was this course of conduct and this state of feeling which induced the change of *venue*.

I have made these remarks, because I fear that a

similar spirit still actuates that portion of this prosecution which is conducted, not by the State, but by private individuals.

I am not aware that the commonwealth of Kentucky is incapable of vindicating her violated laws, or unwilling to prosecute and punish the perpetrators of crime. The district attorney has given ample proof that she is provided with officers fully capable for asserting her rights and protecting her citizens; and with the exception of one or two remarks, which fell from him inadvertently, I accord to his observations my most unqualified approbation; he has done equal justice to the State and the defendants; he has acquitted himself ably, honorably, and impartially. But, gentlemen, though the State is satisfied, the prosecutor is not. Your laws have spoken through their constituted agent; now private vengeance and vindictive malice will claim to be heard. One of the ablest lawyers of your country, or of any country, has been employed to conduct the *private part* of this prosecution; employed, not by the commonwealth, but by the real murderer; him whose forehead I intend, before I am done, to brand with the mark of Cain—that in after life all may know and all may shun him. The money of the prosecutor has purchased the talent of the advocate; and the contract is, that *blood* shall be exchanged for *gold*. The learned and distinguished gentleman to whom I allude, and who sits before me, may well excite the apprehension of the most innocent. If rumor speak truth, he has character sufficient, even though without ability, and ability suffi-

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cient, even without character, to crush the victims of his purchased wrath.

I said that, with the exception of one or two remarks, I was pleased with the manly and honorable course of the commonwealth's attorney. Those remarks seemed to be more in the spirit of his colleague than in accordance with his own feelings. I was sorry to hear him mention so pointedly, and dwell so long upon, the fact that the defendants were *Mississippians*, as if that constituted an ingredient in their crime or furnished a proof of their guilt. If to be a Mississippian is an offense in my clients, I cannot defend them; I am myself *particeps criminis*. We are all guilty; with a malice aforethought, we have left our own beautiful homes and sought that land the name of which seems to arouse in the minds of the opposing counsel only images of horror. Truly the learned gentlemen are mistaken in us; we are no cannibals, nor savages. I would that they would visit us, and disabuse their minds of these unkind prejudices. They would find in that far country thousands of their own Kentuckians, who have cast their lot by the monarch stream, in the enjoyment of whose rich gifts, though they forget not, they hardly regret the bright river upon whose banks they strayed in childhood. No State has contributed more of her sons to Mississippi than Kentucky; nor do they suffer by being transplanted to that genial soil. Their native State may well be proud of them, as they ever are of her.

But I do injustice to you and to myself by dwelling upon this matter. Here, in the heart of Kentucky, my

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clients have sought and obtained an unprejudiced, impartial jury. You hold in your hands the balance of justice; and I ask and expect that you will not permit the prosecution to cast extraneous and improper weights into the scale against the lives of the defendants. You constitute the mirror whose office it is to reflect, in your verdict, the law and the evidence which have been submitted to you. Let no foul breath dim its pure surface, and cause it to render back a broken and distorted image. Through you now flows the stream of public justice; let it not become turbid by the trampling of unholy feet. Let not the learned counsel, who conducts the private part of this prosecution, act the necromancer with you, as he did with the populace in the city of Louisville, when he raised a tempest which even his own wizard hand could not have controlled.

Well may he exclaim, in reference to that act, like the foul spirit in *Manfred*:

I am the rider of the wind,
The stirrer of the storm;
The hurricane I left behind
Is yet with lightning warm.

Aye, so it is still "with lightning warm." But you, gentlemen, will perform the humane office of a conductor and convey this electric fluid safely to the earth.

You will excuse these prefatory observations: they are instigated by no doubt of you, but by a sense of duty to the defendants. I wish to obviate, in advance, the attempts which I know will be made to excite against

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them improper and ungenerous prejudices. You have seen in the examination of one of the witnesses, Mr. Graham, this very day, a specimen of the kind of feeling which has existed elsewhere, and which I so earnestly deprecate. So enraged was he, because the defendants had obtained an impartial jury, that he wished the whole Legislature in that place not to be mentioned to ears polite, and that he might be the fireman; and all on account of the passage of the law changing the *venue*. Now, though I doubt much whether this worthy gentleman will be gratified in his benevolent wishes in relation to the final destiny of the Senate and House of Representatives of this good commonwealth, yet I cannot but believe that his desires in regard to himself will be accomplished and his ambitious aspirations fully realized in the ultimate enjoyment of that singular office which he so warmly covets.

Gentlemen of the jury, I ask for these defendants no sympathy, nor do they wish it. I ask for them only justice—such justice alone as you would demand if you occupied their situation and they yours. They scorn to solicit that from your pity which they challenge from your sense of right. I should ill perform toward them the double duty which I have assumed, both of friend and advocate, did I treat their participation in this unfortunate transaction otherwise than candidly and frankly; did I attempt to avoid responsibility by exciting commiseration. I know that sooner than permit deception and concealment in relation to their conduct, they would bare their necks to the loathsome

fingers of the hangman; for to them the infamous cord has less of terror than falsehood and self-degradation.

That these defendants took away the lives of the two individuals whose deaths are charged in the indictment, they do not deny. But they assert that they did not so voluntarily or maliciously; that they committed the act from stern and imperative necessity; from the promptings of the common instincts of nature; by virtue of the broad and universal law of self-defense; and they deny that they have violated thereby the ordinances either of God or man. They admit the act, and justify it.

The ground of their defense is simple, and I will state it, so that it cannot be misapprehended. They assert, and I shall attempt, from the evidence submitted, to convince you that a conspiracy was formed by the prosecutor and various other persons, among whom were the deceased, to inflict personal violence upon them; that the conspirators, by preconcerted agreement, assembled at the Galt House, in the city of Louisville, and attempted to accomplish their object; and that, in the necessary, proper, and legal defense of their lives and persons from such attempt, the defendants caused the deaths of two of the conspirators. After discussing this proposition, I shall submit another, which is, that even though a conspiracy on the part of the deceased and their companions to inflict personal violence and bodily injury upon the defendants did not exist, yet the defendants had *reasonable* ground to suppose the existence of such a conspiracy, and to apprehend great bodily harm therefrom; and that upon such reasonable

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apprehension they were justified in their action, upon the principle of self-defense, equally as if such conspiracy had, in point of fact, existed.

The law applicable to these two propositions is simple, being, in fact, nothing more than a transcript from the law of nature. The principles governing and regulating the right of self-defense are substantially the same in the jurisprudence of all countries—at least, all civilized ones. These principles have been read to you from the books by my learned and excellent friend, Colonel Robertson, and require no repetition.

That a man has a right to defend himself from great bodily harm, and to resist a conspiracy to inflict upon him personal violence, if there is reasonable danger, even to the death of the assailant, will not, I presume, be disputed. That *reasonable, well-grounded* apprehension, arising from the actions of others, of immediate violence and injury, is a good and legal excuse for defensive action, proportionate to the apparent impending violence, and sufficient to prevent it, I take to be equally indisputable.

By these plain rules, and upon these simple principles, let us proceed to test the guilt or innocence of the defendants. First, then, as to the existence of the conspiracy. Before examining the direct evidence to this point, you will naturally inquire, was there any cause for this alleged conspiracy? Motive always precedes action. Was there any motive for it? If we establish the existence of the seed, we shall feel less hesitation in being convinced of the production of the plant. Was

there, then, any motive on the part of Mr. Redding and his friends for forming a combination to inflict personal violence upon the defendants? In answering this question, it will be necessary to take notice of the evidence which has been given in relation to events that transpired at the shop of Mr. Redding at a period anterior to the transaction at the Galt House, and which, except for the clew they afford to the motive, and consequently to the subsequent action of the parties, would have no bearing upon the case before you. You will take heed to remember that whatever of impropriety you may consider as attaching to the conduct of Judge Wilkinson and his friends during this part of the affair must not be permitted to weigh in your verdict, inasmuch as that conduct is the subject of another indictment which is still pending in this court.

Judge Wilkinson visited Louisville for the purpose of making the preparations necessary for the celebration of his nuptials. The other two defendants had also their preparations to make, inasmuch as they were to act as the friends upon this interesting occasion. Dr. Wilkinson, a brother of the judge, had ordered a suit of clothes of Mr. Redding, who follows the very respectable occupation of tailor, occasionally relieved and interspersed by the more agreeable pursuits of a coffee-house keeper. On the day but one preceding that fixed for the marriage ceremonies, the doctor, in company with his brother and friend, Murdaugh, proceeded to the shop of Mr. Redding for the purpose of obtaining the wedding garments. Upon trying on the coat, it

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was found ill made and of a most ungraceful fit. It hung loosely about his shoulders, and excited by its awkward construction the criticism and animadversion of his friends. Even the artificer did not presume to defend the work of his own hands, but simply contended that he could reorganize the garment, and compel it, by his amending skill, into fair and just proportions. From the evidence, I presume, no one will doubt that it was a shockingly bad coat. Now, though under ordinary circumstances the aptitude of a garment is not a matter of very vital importance in the economy of life, and ought not to become the subject of controversy, yet all will admit that there are occasions upon which a gentleman may pardonably indulge a somewhat fastidious taste in relation to this matter. Dr. Wilkinson will certainly be excused, considering the attitude in which he stood, for desiring a well-made and fashionable coat.

I confess I am not a very good judge in concerns of this sort. I have had no experience on the subject, and my investigations in relation to it have been exceedingly limited. Under favor, however, and with due deference to the better judgment of the learned counsel on the other side, I give it as my decided opinion that a gentleman who is about to participate in a marriage ceremony is justified in refusing to wear a coat which, by its loose construction and superabundant material, indicates, as in the case before us, a manifest want of good husbandry.

Suffice it to say, Dr. Wilkinson and his friends did

object to the garment, and Mr. Redding, after some altercation, consented to retain it. The pantaloons, which constituted a part of the suit, had been sent to the hotel, and the doctor was in the act of paying for them out of a one-hundred-dollar bill, which he had previously deposited with Mr. Redding, when the judge remarked that he had better not pay for the pantaloons until he had first tried them on, as they might be found to fit no better than the coat. Mr. Redding, according to his own evidence, responded, that they had said too much already about the matter; to which the judge, he says, replied, that he did not come there to be insulted, and immediately seized the poker and struck him; upon which the doctor and Mr. Murdaugh also fell on him, with their knives drawn. Redding then seized his shears, but did not succeed in cabbaging therewith any part of his assailants. He was successful, however, in dragging the judge into the street, where, after a slight scuffle which resulted in no personal injury to any of the parties, they were separated. After the separation, Redding offered, if they would lay down their knives, to fight them all. This kind proposition the defendants declined; but the doctor returned into the shop, obtained his hundred-dollar note, and then the defendants retired from the place.

Such, in substance, is Mr. Redding's own account of the transaction at his shop. The witness Weaver also proves the altercation which occurred in relation to the fit of the coat and the scuffle which ensued in consequence. He, however, avers that Redding, in a very

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insulting manner, told the judge that he 'was more meddlesome than the other,' and that he 'was too d—d meddlesome,' or words to that effect; which insulting language so excited the judge that he seized the poker and commenced the assault.

The other witness, Craig, Redding's journeyman, testifies in substance the same as Redding as to what passed in the shop; corroborates his account of the altercation about the coat; and says that he considered Dr. Wilkinson not as assisting in the affray, but as attempting to separate the parties. Some of the witnesses think that the doctor attempted, in the street, to stab Redding, as he was getting the advantage of his brother. The evidence on this point, as well as in regard to the conduct of Murdaugh, is somewhat contradictory. In the view, however, which I have taken of the case, the discrepancy is of little importance.

It is clearly proven, take the evidence in any way, that Mr. Redding used insulting language toward Judge Wilkinson, on account of the judge's expression of an opinion in relation to the fit of his brother's coat. What was the exact language used it is difficult to ascertain.

There were six persons in the room when the quarrel ensued: on the one side, the prosecutor (Redding), his foreman (Craig), and the boy (Weaver); on the other, the three defendants.

All the evidence on this point has been derived from the first party, and ought, consequently, to be taken with many grains of allowance. The prosecutor has

given you his version of the affair, but his cunning has prevented the defendants from giving you theirs. Dr. Wilkinson, who was discharged by the examining magistrate, has been included in the indictment, one would judge, for the very purpose of precluding his testimony. No one can doubt that the conduct of Judge Wilkinson, however reprehensible, resulted from the abusive language and insulting demeanor of Mr. Redding. The happy facility with which he indulged, on a subsequent occasion, in the use of opprobrious epithets, gives good reason to suppose that his remarks on the present were not very guarded. The expression deposed to by Weaver is, I presume, but a sample. "You are too d—d meddlesome," was the observation, accompanied, no doubt, by the overbearing and bullying manner which illustrated his conduct afterwards, and which smacked more of his spiritual pursuit as the Ganyমেদে of a coffeehouse than of his gentle calling as a knight of the shears and thimble. He certainly did on this occasion "sink the tailor," for tailors are proverbially polite and gentlemanly in their deportment.

I do not wish to be considered as justifying Judge Wilkinson or his friends, in taking notice of the petulant and insolent conduct of Redding. I think they would have better consulted their character and feelings by treating him with contempt. I will go farther and candidly admit that I consider their course reprehensible, although it resulted from passion and sudden excitement, and not from deliberate determination. They were themselves convinced of this in a moment, and

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left the ground, ashamed, as they still are, of their participation in the matter—Judge Wilkinson rebuking and leading away his young and more ardent friend Murdaugh, who seemed to indicate more disposition to accept the boastful challenge of Mr. Redding, ‘that he could, if they would lay down their knives, whip them all three.’ From all the evidence it is perfectly clear that, in the altercation, no personal injury resulted to any of the parties; that the defendants retired voluntarily from the quarrel; while Mr. Redding retained the field, and with boastful taunts and insulting outcries invited a renewal of the fight. The Mississippians were manifestly satisfied. Not so Mr. Redding; he was “full of wrath and cabbage,” boiling over with violence, and breathing defiance and vengeance against the retreating foe. He, doubtless, retired to his coffeehouse and attempted to soothe his wounded feelings with some of the delightful beverages which it was occasionally his profitable province to dispense to others. Here his friends gathered around him; he recounted to them his manifold grievances; he grew warm in the recital; the two white-handled pocketknives which had been drawn but not used in the affray danced before his distempered imagination in the shape of trenchant and death-dealing blades. These little instruments of ordinary and general use became at once bowie knives, “in buckram.” He believed, no doubt, and made his friends believe, that he was an injured man, and that some satisfaction was due to his insulted honor. I have presented this part of the case

to you simply for the purpose of enabling you to judge of the subsequent action of the parties, and to indicate on which side a desire for vengeance and a combination to obtain it were most likely to originate. Upon the conclusion of the first affray, which party would you have suspected of a disposition to renew it? Where could lie the motive on the part of Judge Wilkinson and his friends for additional violence? But who that is acquainted with the workings of human nature, or the indications of human feeling, will hesitate a moment in believing that revenge lurked in the bosom of Redding, and sought only a safe opportunity for development? His conduct indicated a state of mind precisely fitted for the formation of a conspiracy.

Having laid the foundation, I will now proceed to the erection of the superstructure. I will show, first by the direct, and then by the circumstantial proofs, the existence of this foul and cowardly conspiracy. I will, however, here remark that I doubt not the misrepresentations and falsehoods of Mr. Redding, in relation to the transaction, induced several of the persons implicated to join the combination, who, with a correct knowledge of the facts, would never have participated in the affair.

First, then, as to the direct and positive evidence. Mr. Jackson says that immediately after the first affray he was passing Mr. Redding's when his attention was attracted by loud talking in the store, which induced him to enter, where he found Redding, Johnson, and Meeks. Johnson was expressing his opinion as to the

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course which should be pursued toward the Mississippians for their conduct, and said they "ought to go to the Galt House and flog them." "Jack," said he to Mr. Redding, "just say the words, and I'll go for Bill Holmes, and we'll give them h—l"; at the same time boasting, in his own peculiar phraseology, 'that he was as much manhood as was ever wrapped up in so much hide.' Upon some hesitation being evinced at this proposition, Meeks said: "Let's go, anyhow, and we'll have a spree."

Mr. Jackson further deposes that, some time after, he was stopped by Johnson on the street, who told him he was going after Holmes; that Jack Redding was a good man, and that he, Jackson, ought to go with them to the Galt House and see him righted. Jackson declined, alleging as an excuse his religious character and his desire to abstain from fighting; whereupon Johnson exclaimed, in his ardent zeal for enlisting recruits, that "Church, hell, or heaven ought to be laid aside to right a friend." Jackson says he understood it distinctly that it was a fight to which he was invited.

Mr. Jackson's testimony is entitled to credit. He did not participate in the affair, and he can have no inducement to speak falsely, for all his prejudices must naturally be enlisted on the side of the prosecution. His character is sustained by unexceptionable testimony, and has been impugned by no one except the salamander gentleman whose ambition seems to be to pursue in the next world that occupation which in this is principally monopolized by the descendants of Ham.

The next direct evidence of the conspiracy is from Mr. Deering, whose character and testimony are both unimpeachable. He says he was passing down Market Street on the evening of the affray when he saw, near the Market House, Johnson in company with Holmes and others, and that they were discussing the subject of the quarrel between the Mississippians and Redding. This proves that Johnson was carrying into effect his proposition at Redding's store, 'to go and get Bill Holmes, and give them h—l.' He had already found "Bill Holmes," and, we shall presently see, made all his arrangements for 'giving them h—l.'

Mr. Deering says that, soon after, he met Mr. Johnson again, who inquired for Mr. Turner, the city marshal. Mr. Deering told him he would be too late with his officers, for the Mississippians would be gone; to which Mr. Johnson responded, '*there were enough gone there—that if they came down their hides would not hold shucks.*' What did this mean, if it did not indicate that the conspiracy had already been formed, and a portion of the conspirators assembled at the Galt House for the purpose of preventing the game from escaping, and holding it at bay until the arrival of the rest of the hunters? They had gone, it seems, too, in sufficient numbers to authorize the classical boast of Mr. Johnson, 'that if they (meaning the Mississippians) came down their hides wouldn't hold shucks.'

There is one more witness whose testimony is positive to the point. It is Mr. Harris. He swears, clearly and unequivocally, that Johnson met him on the evening of

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the affray, told him that the Mississippians had insulted Mr. Redding, and directly solicited him to go with Redding's friends to the Galt House and see him righted. Mr. Harris says he refused to go, whereupon Johnson exclaimed, "Are you a friend of Redding's?" thereby showing how strong was the feeling where even a mere refusal to participate in the violence was considered as proof that the man refusing was no friend of Redding.

Such, gentlemen, is the positive proof of the conspiracy. It consists of the evidence of three disinterested and honest witnesses, two of whom were directly and strongly solicited to participate in the matter. The testimony of each of these witnesses corroborates that of the other two. The facts sworn to have a natural order and connection. There is verisimilitude about the whole story, which would not belong to either portion by itself. The testimony is entitled to much more weight than if it had been the recital of a single witness; for if you believe one of the witnesses, you must give credit to all. One of them swears that he heard Johnson, in Redding's shop, propose to Redding and his friends that he should get "Bill Holmes" and "give them h—l." The next witness saw Johnson in the street immediately after, in company with "Bill Holmes," who seems to have been the Achilles of these Myrmidons, explaining to him his dear Patroclus, Redding, had been insulted by the hectoring Mississippians, and urging him to vengeance. Again the same witness met Johnson, and was informed by him that a portion of his banditti had already taken possession of the

passes of the Galt House, and that, if the Mississippians appeared, 'their hides wouldn't hold shucks.' The third witness swears to a positive solicitation from Johnson that he should join in the affray, and to the expression of strong indignation by this slayer of cattle upon his refusal to do so.

Johnson was the "Malise" of the party, the "messenger of blood and brand" sent forth to summon the clansmen true. Too well did he perform his duty. He collected his friends, and conducted them like beasts to the slaughter, while he himself found the "manhood" which, according to his boast, distended his hide, rapidly descending to his heels. But enough, for the present, of this vaporeing worthy; I shall pay my respects to him hereafter.

I will now proceed, in pursuance of the plan I had prescribed, to show the existence of the conspiracy by the circumstantial evidence, which is, if possible, more irrefragable than the direct testimony, but yet most beautifully illustrates and confirms it. I will exhibit to you a chain of facts, linked together by a natural and necessary connection, which I defy even the strong arm of the opposing counsel to break. I will weave a cable upon whose unyielding strength the defense may safely rely to ride out the storm of this furious prosecution.

Mr. Redding went to the Galt House after the affair at his shop, for the purpose, as he avows, of obtaining the names of the Mississippians, that he might procure process against them from the civil authorities. On his way, as he confesses, he armed himself with a deadly

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weapon, which, however, I am bound in justice to say, he never had the courage to use. A number of individuals accompanied and followed him, whose manner and strange appearance excited universal attention, even in the barroom of the most frequented hotel in the Western country. Their strange faces and strange action excited general apprehension. Nearly every witness to the unfortunate catastrophe has deposed that he was struck with the "strange faces" congregated in the barroom. The learned counsel on the other side has attempted to prove in the examination, and will, no doubt, insist in the argument, that that room is daily crowded with strangers from every part of the country; that the excellence of the fare and the urbanity of its proprietors invite to the Galt House a large portion of the traveling public; and that, consequently, it is nowise remarkable that strange faces should be observed in the barroom. Though I admit the gentleman's premises, I deny his conclusion. That strangers should frequent the Galt House is not wonderful; they do it every day; and for that very reason strange faces, under ordinary circumstances, arouse neither remark nor attention. That the "strange faces" of Mr. Redding's friends should have excited remark and scrutiny, not only from the inmates of the house, but from strangers themselves, is truly wonderful, and can be accounted for only by admitting that there was something very peculiar in their conduct and appearance.

They went there prepared for preconcerted action. Having a common object and a well-arranged plan, a

glance or a motion sufficed to convey intelligence from one to the other. Telltale consciences spoke from each countenance. Their looks, unlike the mystic sign of the mysterious brotherhood, gave up to the observer the very secret they wished thereby to conceal. There is a strange and subtle influence, a kind of mental sense, by which we acquire intimation of men's intentions, even before they have ripened into word or action. It seems, on such occasions, as if information was conveyed to the mind by a sort of natural animal magnetism, without the intervention of the senses.

Thus, in this case, all the bystanders were impressed at once with the conviction that violence was intended by the strange men who had attracted their attention. These men, it is proven, were the friends and intimate companions of Redding. Most of them, though living in the city of Louisville, were not in the habit of going to the Galt House, and yet, by singular coincidence, had all assembled there on this occasion.

They were remarkably stout men, constituting the very elite of the thews and muscle of Louisville, and many of them noted for their prowess in the vulgar broils of the city. Why had they thus congregated on this occasion? Why their strange and suspicious demeanor? I will show you why. It will not be necessary to await the actual fight to become fully conversant with their purpose. It found vent in various shapes, but chiefly bubbled out in the unguarded remarks and almost involuntary expressions of the more garrulous of the party.

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I shall be compelled, even at the risk of being tedious, to glance at the evidence of a number of the witnesses in showing you the circumstances at the Galt House, which conclusively indicate the existence of the conspiracy.

Mr. Everett, one of the proprietors of the Galt House, says he was admonished by his barkeeper that a difficulty was about to arise, and he had better persuade Judge Wilkinson out of the barroom. Accordingly, he went in and took the judge away, and gives, as a reason, that he was alarmed at the strange faces in the barroom, and apprehended difficulty; alarmed, not because the faces were those of strangers, but because of something in their appearance which indicated concert and threatened violence.

Mr. Trabue was waiting in the room for supper, and says he heard some one remark, "If the Mississippians had not gone upstairs, they would have been badly treated"; in connection with which remark Redding was pointed out to him. This, it seems, was after the judge had retired at the solicitation of Mr. Everett. Now, who were to have treated the Mississippians badly, except Mr. Redding and his friends? Who else had any pretense for so doing? Can you doubt for a moment that the remark had reference to Mr. Redding's party? It was probably made by one of them; but whether by one of them or a stranger, it equally indicated their violent determination. Mr. Trabue also proves that after Judge Wilkinson retired, Mr. Redding also retired; and when the judge returned into the

barroom, Redding presently entered, followed, to use the language of Mr. Trabue, "by a right smart crowd" of his friends. Now, why did Redding thus go out and return with his gang at his heels? Why were his movements thus regulated by the motions of the judge? Wherefore was it that everyone expected a difficulty?

Mr. Redding, according to his own story, went to the Galt House simply for the purpose of obtaining the names of the gentlemen who had insulted him.

He had accomplished his ostensible object. He had obtained the names, and more than that, he had gratified his base appetite by abusing one of the gentlemen in the most indecent and disgusting manner. No rowdy who ever visited his coffeehouse could have excelled him in this, to the vulgar mind, sweet mode of vengeance. He had even driven the judge from the room by the overwhelming torrent of his billingsgate epithets. To use an expression suited to his comprehension and feelings, he remained "cock of the walk." Yet he was not satisfied. He retired and watched the return of the judge, and then, emboldened by his previous impunity, followed with his cutthroat band to complete the work of vengeance.

But to proceed with the circumstantial evidence. Mr. Montgomery states that he was with Mr. Trabue at the Galt House when Redding came in after the names, and also when he came back just before the conflict; heard him use very rough language, and also heard Halbert remark that there would be 'rough work with the Mississippians.' Now this fully corroborates the tes-

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timony of Mr. Trabue on the same point, who heard the remark, but did not recollect who made it. This Marshall Halbert is the man who boasted, after the affair was over, that he had knocked down one of the Mississippians with a chair while his back was toward him, and recounted many other feats of daring to the astonishment of the listeners.

I should judge him to be of the blood of honest Jack Falstaff, whose killing, as everybody knows, was always by word of mouth, and whose deeds of desperate valor were so unfortunate as to find neither historian nor believer except himself. At all events, Halbert, according to his own confession, was one of the conspirators, and, I have no doubt, performed his part in the affray as well as he knew how, and with much greater humanity than he pretends. In addition to the above remark of Halbert's, Mr. Montgomery states that he heard several persons say, at a time when the defendants were not in the room, that they would beat the Mississippians well.

General Chambers, who lives opposite the Galt House, and is in the daily habit of visiting it, says he went into the barroom just before the affray, that he observed persons whom he was not in the habit of seeing there, and that, from their appearance and demeanor, his suspicions were immediately aroused.

I attach great weight to the testimony of General Chambers. His character for intelligence and observation needs no comment from me, and the fact that his suspicions were aroused must convince everyone that cause for alarm existed.

The next testimony to which I shall refer is that of Mr. Oliver. He says that he was acquainted with Mr. Meeks, and was taking a social glass with him on the evening of the affray, when Meeks started off, saying he must go to the Galt House (which was on the opposite side of the street), that he was bound to have a fight that night, and, 'by G—d, he would have one.' You will recollect that Meeks was one of the persons who collected around Redding immediately after the affair at the shop, and seconded Johnson's proposition to get "Bill Holmes" and "give them h—l," by saying, 'they would go, anyhow, and have a spree.' Can you doubt, for a moment, that the observation made by this unfortunate man to Mr. Oliver, as just recited, had relation to the previous arrangement with Johnson and others, at Redding's shop? The remark of Meeks seems to me, taken in connection with his previous and subsequent conduct, almost conclusive of itself as to the existence of a conspiracy. I had almost forgotten to observe Mr. Oliver's statement that Meeks, before he started, tied a knot in the small end of a cowhide which he carried, manifestly to prevent it from slipping out of his hand in the conflict which he so eagerly courted. His knife, by a sort of pious fraud, had been taken from him by Mr. Oliver, otherwise the result might have been very different. The prudent caution of Mr. Oliver in disarming him of his weapon proves how strong must have been the indications of his violent disposition.

Mr. Reaugh says he was at the Galt House on the

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evening of the affray and saw Redding in conversation with Rothwell and Halbert; he also saw Holmes and Johnson. Something in the demeanor of the party induced him to ask Johnson what was the matter. Johnson replied by relating the affair of the shop. Upon which Reaugh observed: "If the Mississippians fall into the hands of these men, they will fare rather rough." "Yes," replied the worthy butcher, "they would skin them quicker than I could skin a sheep." Mr. Reaugh states that he made the remark to Johnson because of the remarkable size and strength of the men to whom he alluded, the strange manner in which they had assembled, and the fact that he knew them to be friends of Redding, and that Redding had been in a quarrel with the Mississippians.

Mr. Miller states that being a member of the grand jury and having heard of the affray at Redding's, he went into a tin-shop to inquire about the matter, when Mr. Halbert came in and boasted much of what he intended to do. Witness then went to the Galt House for supper, when he heard Redding abusing Judge Wilkinson and challenging him for a fight. Witness advised Halbert to take Redding away, observing that he, witness, was on the grand jury, had the names, and would have all the matter attended to. Some one, he thinks Johnson, then remarked that 'if he didn't leave the room, he'd see the finest sort of beefsteaks served up.' Presently he heard the exclamation, near the counter, "There they are, all three of them!" and the crowd immediately closed in upon the persons so indicated.

Mr. Waggy also heard the remark about the "steaks," and then heard some one exclaim: "We'll have a h—l of a fight here just now." He also heard Mr. Miller advise Halbert to take Redding away.

Mr. Brown swears that he heard Mr. Miller tell Mr. Redding he was not taking the proper course; he should have the matter before the grand jury; whereupon some one said: "Hush you, Bill Miller, if it comes to handy-cuffs, the boys will settle it." The witness then became so apprehensive of a fight that he left the room.

Now, though Miller is not positive as to the person who made use of the expression about 'serving up beef-steaks,' yet no one, I take it, will hesitate as to his identity. Who but Johnson could speak in such rich and technical language? Who but Johnson could boast of 'having as much manhood as was ever wrapped in the same extent of hide'? while, at the same time, he had so arranged it that the "hides" of the Mississippians 'would not hold shucks.' Who but this unmitigated savage would talk of "skinning" a gentleman "quicker than I could skin a sheep"? Why, he rubs his hands, licks his lips, and talks of serving up Christians in the shape of "steaks" with as little compunction as you or I would exhibit in eating a radish. The cannibal! He should go at once to New Zealand and open his shambles there. His character would suit that country; and I doubt not he would obtain great custom and find ample demand for his human "steaks." Why, gentlemen, I should be afraid to buy meat out of his stall. He talks as if he supplied it by burking. I

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should expect some day to swallow an unbaptized infant in the disguise of a reeking pig, or to eat a fellow-citizen incognito in a "steak." Such a fellow should be looked to. But, again, what meant the expression deposited to by Reaugh, "There they are, all three of them, now"? It was the signal for the conspirators to close in. It clearly proves a preconcerted plan; no names were mentioned, and without a previous understanding the expression would have been nonsense. Most of the party did not know the Mississippians; hence it was necessary that some one should give intimation when they entered the room. The expression "There they are" was the signal for the onset. What meant the expression sworn to by Waggy, "We'll have a h—l of a fight just now"?

What conclusion do you draw from the response made to Miller, when he advised Redding to bring the matter before the grand jury: "Hush you, Bill Miller, if it comes to handcuffs the boys will settle it"? If what comes to handcuffs? And who were the boys? Why, if the quarrel with the Mississippians comes to handcuffs, and as for the "boys," there was not a man present who did not know who they were.

Redding was one of the "boys," and a very bad boy, too. Billy Holmes was another; Marshall Halbert was a "perfect broth of a boy," and, if his own story is entitled to credit, he must have been twins, for he acted the part of at least two in the fight. Bill Johnson was as much of a boy as ever was "wrapped up in the same amount of hide," though his extraordinary modesty has

induced him to deny the soft impeachment. The unfortunate Meeks and Rothwell were two of the "boys"; and last, though not least, comes Harry Oldham, the "Jack Horner" of the party. He "sat in the corner" till the fight was nearly over, when he "put in his thumb" and "pulled out," not "a plum," but a pistol; and ever since has been exclaiming: "What a brave 'boy' am I!"

Yes, gentlemen of the jury, these were the "boys" whose strange appearance aroused the suspicions and excited the apprehensions of all.

Permit me, now, to call your attention to the testimony of Mr. Donahue. It is clear and conclusive. He swears that on the evening of the affray, and just before it occurred, being in the barroom of the Galt House, he heard Rothwell ask Redding 'if they were there?' Upon being answered in the negative, he exclaimed: "Come, let us go upstairs and bring them down, and give them h—l." Rothwell was the brother-in-law of Redding, had been informed by Redding of his grievances, and had accompanied him to the Galt House. Whom did he mean when he asked 'if they were there?' The Mississippians, undoubtedly. Whom did he propose to drag from their rooms and chastise? Of course the same persons for whom he had just inquired. Rothwell asked 'if they were there?' When the defendants came in, some one cried out: "There they are, all three of them!" These two expressions manifestly emanated from persons who understood each other, and were engaged in pursuit of a common object.

If these remarks had no relation to some previously

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concerted plan of action, they would be unmeaning and foolish; but granting the existence of the conspiracy I have supposed, and every word is pregnant with meaning, full of force, weight, and effect.

Mr. Raily deposes to the caution given by Miller to Redding; also to the fact that Redding left the room when Judge Wilkinson had retired, and came back again immediately after the judge had returned. He also saw Oldham, after the affair was over, putting a pistol into his pocket, and wiping, with his handkerchief, the blood from a double-edged dirk.

Mr. Pearson says he went to the Galt House just before supper on the evening of the affray. As he stood behind the bar, one Captain Rogers observed that there would be a fight. Presently, witness met Marshall Halbert, and told him he ought to stop it, meaning the fight. Halbert said: "No, let it go on." This was before Redding had commenced abusing Judge Wilkinson, and proves that the idea of a fight did not originate from that circumstance. The judge came, and Redding abused him. He went out, and Redding followed. He returned, and presently so did Redding with a crowd at his heels. Seeing the crowd, and apprehending violence, Mr. Pearson was in the act of leading the judge out of the room, when the crowd rushed upon Murdaugh; the affray commenced, and the judge stopped, refusing to leave the room until he saw his friends out of the difficulty. Need I ask you whether he was right in so doing?

Mr. Banks says he saw Redding just after the first

affray, and asked him if he was hurt. He said, "No," but that 'he would have satisfaction,' and that 'he could whip them, all three.'

Dr. Graham says, that after Judge Wilkinson had left the barroom the first time, he heard some one observe: "The d—d coward has run."

Does not Mr. Oldham's testimony prove the conspiracy? I do not mean directly, but circumstantially. He says he was not present at the fight in the barroom, and knew nothing of the affair, nor of the defendants. He says he was standing in the passage when the door opened, and he received a cut from Dr. Wilkinson, whom he knocked down for his pains.

After fighting in the crowd awhile, he saw Murdaugh retreating upstairs, and heard him asking for a pistol, whereupon he was reminded of his own pistol, which he immediately drew and discharged at the young gentleman, giving him, not the weapon, but its contents, to wit, a bullet split in three pieces. This worthy gentleman, who is certainly

as mild a mannered man
As ever scuttled ship, or cut a throat,

swears positively that he did not know either of the defendants; that he belonged to neither party in the affray; and that he fought, to use his own descriptive and unrivaled phraseology, entirely 'upon his own hook.'

Surely, Mr. Henry Oldham must be the knight-errant of the age; the Don Quixote of the West; the paragon of

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modern chivalry. He fights, not from base desire of vengeance, nor from sordid love of gold; not even from patriotism or friendship; but from a higher and a loftier sentiment: from his pure, ardent, disinterested, unsophisticated love of glorious strife. Like Job's war horse, he "smelleth the battle afar off," and to the sound of the trumpet he saith, ha! ha! To him

There is something of pride in the perilous hour,
Whate'er be the shape in which death may lower,
For fame is there, to tell who bleeds,
And honor's eye on daring deeds.

You have heard, gentlemen, of the bright, warm isles which gem the Oriental seas, and are kissed by the fiery sun of the tropics; where the clove, the cinnamon, and the nutmeg grow; where the torrid atmosphere is oppressed with a delicious, but fierce and intoxicating, influence. There the spirit of man partakes of the same spicy qualities which distinguish the productions of the soil. Even as the rinds of their fruits split open with nature's rich excess, so do the human passions burst forth with an overwhelming violence and prodigality unknown, till now, in our cold, ungentle clime. There, in the islands of Java, Sumatra, the Malaccas, and others of the same latitude, cases similar to that of Mr. Henry Oldham are of frequent occurrence. In those countries it is called "running amuck." An individual becomes so full of fight that he can no longer contain it; accordingly, he arms himself with a species of dagger, very similar to that from which Mr. Oldham wiped the

blood with his pocket handkerchief, and rushing into the public streets, wounds and slays indiscriminately among the crowd. It is true that this gallant exploit always results in the death of the person performing it, the people of the country entertaining a foolish notion that it is too dangerous and expensive a mode of cultivating national bravery. But, in the present instance, I trust this rule will be relaxed. Mr. Oldham is the only specimen we possess of this peculiar habit of the spice islands, and he should be preserved as a curiosity.

But, alas! the age of chivalry has gone by; and, in the performance of my duty, I fear I shall have to exhibit some little defects in the character of Mr. Oldham, calculated in this censorious day to detract from his general merits. It is with great pain I feel constrained to say (for he is a sort of favorite of mine) that telling the truth is not one of his knightly accomplishments, and that his heroic conduct in the affray at the Galt House was nothing more nor less, according to his own story, than a downright cowardly attempt at assassination.

First, as to his veracity. He says that he was cut in the passage by Dr. Wilkinson, to whose identity he swears positively; yet it is proven, by half a dozen unimpeachable witnesses, that the doctor was at this time *hors de combat*, beaten to a mummy—almost lifeless, and perfectly limber—while his knife had fallen from his relaxed and nerveless grasp upon the floor of the barroom, where it was afterwards picked up.

Yet Oldham swears, manfully, that it was the doctor who cut him; though when asked if his face was not

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bloody, he replied that the passage was too dark to enable him to distinguish faces. If he could not see whether the face of the person who cut him was bruised or bloody, how dares he swear that it was Dr. Wilkinson, whom he admits he had never seen before?

Yet, though his vision was so dull in regard to this matter, it was almost supernaturally keen upon another. He swears that he was cut by a dirk knife *with a "white handle."* Now, in this dusky passage, where he could not see the assailant's face, how could he distinguish so accurately the character of the weapon, and, more especially, of the handle? The handle of such a knife as either of those exhibited would be entirely concealed in the grasp of the holder. But Mr. Oldham could see through the hand, and swear to the color of the handle, even when he could not distinguish the color of the assailant's face.

The prosecution seems to be afflicted with a monomania on the subject of white-handled knives. The white handles cause them greater terror and excite more of their observation than the blades. One would almost be led to suppose, from the evidence, that the defendants held by the blades and fought with the handles. These white handles flash before their eyes like the bright inscription upon the dim steel of a Turkish scimitar. I hope, though with many misgivings, that none of them will ever die of a "white handle."

But, to return to my subject, why, in the name of all that is human or humane, did Oldham shoot at Murdaugh, whom, he acknowledges, he did not know; of

whose connection with Dr. Wilkinson he was unacquainted; and who had not attempted to do him the slightest injury? According to his own account of the matter, he acted the part of a base and cowardly assassin. If he tells the truth, he is an assassinating villain; if he does not, he is a perjured villain. I leave him choice of these two horns of the dilemma, though I doubt not the latter is the one upon which he is destined to hang. I cannot believe in the existence of such a monster as he would make himself out to be, and have offered his conduct to you as evidence of the existence of a conspiracy, and of his participation in it. It is better that he should have the excuse of having fought in Redding's quarrel, than no excuse at all.

Gentlemen of the jury, I have now performed that portion of my task which embraced the circumstantial evidence. Out of the mouths of fifteen different witnesses, most of them gentlemen of high character and undoubted veracity, I have exhibited to you an almost countless variety of circumstances, the occurrence of which, or of any great portion of them, is absolutely incompatible with any other hypothesis than that of the existence of the conspiracy, which I proposed at the outset to prove. Upon that hypothesis, all these circumstances are easily explicable, and in perfect accordance with the ordinary principles of human action.

I have combined the scattered strands of evidence; I have finished the cable which I promised; and now challenge the opposing counsel to try their strength upon it. They may pick it into oakum; but I defy them to break it.

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There is one other argument in favor of the view that I have taken of the origin of this unfortunate affray, which may be properly introduced at this time, and with which I shall close this branch of the subject.

It arises out of the respective characters and positions in life of the two parties, and is, in my opinion, entitled to great weight. Who, in view of his character and situation, was most likely to have sought and provoked the unfortunate conflict—Judge Wilkinson or Mr. Redding? The conduct of the judge under the opprobrious epithets heaped upon him by Redding, in the barroom, sufficiently indicates that, though he had previously given way to sudden passion, he was now cool, collected, and forbearing. His mind had recovered its balance, and he behaved on this occasion, as well as subsequently, with philosophical calmness. I doubt, gentlemen, whether any of you would have permitted Mr. Redding to indulge, with impunity, in such unmeasured abuse. But the situation of the judge was peculiar, and every inducement which could operate upon a gentleman warned him against participation in broils and battles. With buoyant feelings and pulse-quicken-
ing anticipations, he had come more than a thousand miles, upon a pilgrimage to the shrine of beauty, and not of blood; upon an errand of love, and not of strife. He came to transplant one of Kentucky's fairest flowers to the warm gardens of the sunny South. The marriage feast was spread; the bridal wreath was woven; and many bounding hearts and sparkling eyes chid the lagging hours. The thoughts of the bridegroom dwelt

not upon the ignoble controversy, which, for an unguarded moment, had occupied his attention, but upon the bright and glorious future, whose rapturous visions were about to become enchanting realities.

Under such circumstances, Judge Wilkinson could not have desired the conflict. Had the fires of hell blazed in his bosom, they must have been quenched for a while. The very fiend of discord would have been ashamed, fresh from a voluntary, vulgar, bloody quarrel, and reeking with its unsightly memorials, to have sought the gay wedding banquet.

You cannot believe he coveted or courted the unfortunate affray, without, at the same time, considering him destitute, not only of all sentiment of delicacy and refinement, but of every characteristic of a man. Does his previous character warrant such a conclusion? He has, as has been shown to you in evidence, ever maintained the character of an honorable and upright gentleman. I see, by the sneer upon the lip of the adverse counsel, that the term grates harshly upon his sensibilities. But, I repeat it, Judge Wilkinson has ever maintained the character of a gentleman; a character directly at war with the supposition that his conduct on this occasion resulted otherwise than from necessity. I mean by a "gentleman," not the broadcloth, but the man; one who is above doing a mean, a cowardly, or a dishonest action, whatever may be the temptation; one who forms his own standard of right and will not swerve from it; who regards the opinions of the world much, but his own self-respect more. Such men are confined to

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no particular class of society, though, I fear, they do not abound in any. I will save the learned counsel the trouble of translating his sneer into language, by admitting that they are to be found as readily among mechanics as elsewhere.

Such a man I believe Judge Wilkinson to be. Such has ever been his character, and he is entitled to the benefit of it on this occasion. It ought to have, and I know will have, very great weight with you. Good character always has been, and ever should be, a wall of strength around its possessor, a sevenfold shield to him who bears it.

This is one of the advantages which virtue has over vice—honorable over dishonorable conduct—an advantage which it is the very highest interest of society to cherish and enforce. In proportion to the excellence of a man's character is, and ever ought to be, the violence of the presumption that he has been guilty of crime. I appeal, then, to Judge Wilkinson's character, to prove that he could not have desired this unfortunate controversy; that it is impossible he should have been guilty, under the circumstances which then surrounded him, of the crime of willful and malicious murder. What, on the other hand, was the condition of the conspirators? Redding had been going about from street to street, like Peter the Hermit, preaching up a crusade against the Mississippians. Johnson, like Tecumseh—but no, I will not assimilate him to that noble warrior—like an Indian runner, was threading each path in the city, inciting his tribe to dig up the tomahawk and drive

it, not into the scalps, but the "steaks" of the foe. But I will not pursue this point at greater length.

I proposed, after arguing the position that there actually was a conspiracy to chastise the defendants, and inflict upon them great bodily harm, to show, in the next place, that the defendants had good reason to believe such a conspiracy existed, whether in point of fact it did or not. Most of the arguments bearing upon this proposition have been already advanced in support of the other. These I will not repeat. There are one or two others worthy of notice. What could Judge Wilkinson have supposed from the conduct of Redding but that he sought and provoked a difficulty? What else could he conclude from the unmitigated abuse which was heaped upon him from the opening of the very sluices of vulgarity? That the judge apprehended violence is evident from the warning which he gave. He told Redding that he might say what he pleased, but not to lay his hands upon him; if he did, he would kill him. He could not be supposed to know that Redding came only for the names. When Meeks stepped up to Murdaugh and struck him with his clubbed whip, while the crowd closed in around, what could Murdaugh reasonably expect but violence and bodily harm, resulting from preconcerted arrangement? Without going at length into an argument on this point, I take it for granted no one will deny that the defendants had ample grounds for apprehending the existence, on the part of Mr. Redding and his friends, of a conspiracy to commit upon them personal violence.

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Let us now look a moment at the conduct of the defendants, at the Galt House, and see whether it transcended the bounds of right, reason, or prudence. When Murdaugh and the doctor entered the room, the exclamation was made by some one loud enough for all to hear: "There they are, all three of them, now"; upon which, according to nearly all the witnesses, Mr. Redding made the remark to Murdaugh: "You are the man that drew the bowie knife on me." You will recollect, Redding had just crossed Judge Wilkinson's path, and placed himself with his back against the counter, manifestly with the object of bringing on the fight. Murdaugh, indignant at being publicly charged with having drawn a bowie knife upon an unarmed man, replied, 'that anyone who said he had drawn a bowie knife told a d—d lie'; whereupon instantly steps up Meeks, with his knotted cowhide, exclaiming: "You are the d—d little rascal that did it"—at the same time inflicting upon him a very severe blow. By the bye, this assertion of Meeks proves that he had been at Redding's after the first affray, and heard a full account of it. It is urged against the judge that when Mr. Everett led him to his room he asked for pistols. I think an argument in his favor may be drawn from this circumstance. His requisition for arms proves that he considered himself and his friends in great personal danger. He manifestly required them not for offense, but for defense. Had he intended an attack, he would not have gone down to the barroom without first obtaining the weapons he desired. Men do not voluntarily attempt the

lives of others without being well prepared. It is evident that Judge Wilkinson and his friends thought only of the protection of their own persons, for they went downstairs provided only with the ordinary weapons which they were accustomed to bear. Murdaugh and the doctor had a pocketknife each; the same they had previously carried. They had added nothing to their armor, either offensive or defensive. The judge, apprehensive of difficulty, had taken his bowie knife, which, probably, he had not previously worn. When, at the solicitation of Mr. Everett, he retired, he doubtless informed his friends of what had just transpired in the barroom, and expressed his fears of violence. This accounts for the readiness with which Murdaugh met the assault of the two powerful men who simultaneously rushed upon him.

The evidence is conclusive that Meeks commenced the attack upon Murdaugh by two rapid, violent blows of a cowhide, accompanied by a heavy blow from a stick or cane in the hands of Rothwell. At the same time he seized the hand of Murdaugh, in which, prepared for defense, was an open knife; but Murdaugh, with coolness and celerity, changed the weapon to his left hand, and used it according to the dictates both of law and common sense. The very first blow had driven him to the wall. The crowd closed around him; he could not retreat, and was justified, according to the strictest and most technical principles of even English jurisprudence, to take the life of the assailant. No man but a fool or a coward could have acted otherwise than

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he did. Was he not, according to the rule read by the district attorney, in imminent danger of his life or of great bodily harm? Let the unhealed wound upon his head respond. Let his hat, which has been exhibited to you, answer the question. Upon this you may perceive two incisions, which must have been caused by a sharp, cutting instrument. No obtuse weapon was capable of the effect. The blows were manifestly sufficient to have caused death but for the intervention of the elastic material upon which their principal force was expended. The part, then, taken by Murdaugh in the affray was clearly defensive and justifiable. It is not pretended that Dr. Wilkinson took any other part in the affray than attempting to escape from its violence, unless you notice the evidence of Oldham, that he cut him as he fled from the room. He was beaten, first by Rothwell, then by Holmes, and if you take their own statements, by those two worthies, Halbert and Oldham. He was crushed almost to atoms. He had not a chance even for self-defense. Rothwell had left Murdaugh, after striking him one blow, in charge of Meeks, and fell upon the doctor. While beating the doctor, he was stabbed by the judge, near the dining-room door. The doctor fled round the room, still followed by Rothwell, who was again struck by the judge when upon the opposite side. The two blows paralyzed his powers; when Holmes stepped in and so completely prostrated the doctor that he was compelled to hold him up with one hand while he beat him with the other.

Neither offensive word nor action, upon this occasion,

on the part of Dr. Wilkinson, is proven or pretended. It is perfectly clear that he was beaten by Redding's friends, simply because he was of the Mississippi party. I consider it highly disgraceful to the grand jury that found the bill, that he was included in it.

In reference to the part taken by Judge Wilkinson, it is proven beyond contradiction, by Mr. Pearson, a gentleman of undoubted veracity, that the judge, at his solicitation, was in the act of leaving the room as the affray commenced; when, witnessing the attack upon Murdaugh, he stopped, refusing to leave until he saw the result of the controversy in which his friend was engaged. Standing in the corner of the room, he did not at first take part in the conflict, perceiving, doubtless, that Murdaugh was making good his own defense. Presently, however, he cast his eyes around and saw his brother trodden under foot, entirely powerless, and apparently either dead or in imminent danger from the fierce blows of Rothwell, who, as you have heard, was a man of tremendous physical power, and armed with a bludgeon, some say a sword cane. Then it was he thought it necessary to act; and advancing through the crowd to the spot, he wounded the assailant who was crushing out his brother's life. General Chambers swears positively that Rothwell was beating, with a stick, and with great severity, some one, whom the other witnesses identify as the doctor, at the time he was stabbed near the dining-room door. This produced a slight diversion in the doctor's favor, who availed himself of it by retreating, in a stooping posture, toward the passage

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door. Rothwell, however, pursued and beat him down, but was arrested in his violence by another blow from Judge Wilkinson, which, together with the puncture in his throat, received, in all probability, from a chance thrust of the sword cane in the hands of one of his own party, disabled him and caused his death. About this time Holmes was completing Rothwell's unfinished work, and the doctor, hunted entirely around the room, fell, utterly exhausted, at the feet of his relentless pursuers. It is wonderful that he had strength enough to escape with Murdaugh and the judge.

Such, briefly, were the parts enacted by these defendants, respectively, in this unfortunate affray, the result of which none regret more than themselves. Considering the proof of the conspiracy, and the knowledge, or even the reasonable apprehension on the part of the defendants, of its existence, as affording them ample justification for their participation in the matter, I have not thought it necessary to go into a minute analysis of the evidence on this branch of the subject, nor to attempt to reconcile those slight discrepancies which will always occur in the testimony of the most veracious witnesses, in giving an account of the transaction viewed from different positions and at different periods of time.

The law of self-defense has always had and ought to have a more liberal construction in this country than in England. Men claim more of personal independence here; of course they have more to defend. They claim more freedom and license in their actions toward each

other, consequently there is greater reason for apprehending personal attack from an enemy. In this country men retain in their own hands a larger portion of their personal rights than in any other; and one will be authorized to presume an intention to exercise and enforce them, upon grounds that, in other countries, would not excite the slightest suspicion. It is the apprehension of impending harm, and not its actual existence, which constitutes the justification for defensive action. If mine enemy point at me an unloaded pistol or a wooden gun, in a manner calculated to excite in my mind apprehensions of immediate, great bodily harm, I am justifiable in taking his life, though it turn out afterwards that I was in no actual danger.

So, on the other hand, if I take the life of another, without being aware of any intended violence on his part, it will constitute no excuse for me to prove that he intended an attack upon me.

The apprehension must be reasonable, and its reasonableness may depend upon a variety of circumstances—of time, place, and manner, as well as of character. The same appearance of danger would authorize greater apprehension, and of course readier defensive action, at night than in the daytime. An attack upon one in his own house would indicate greater violence, and excuse stronger opposing action, than an attack in the street.

Indications of violence from an individual of known desperate and dangerous character will justify defensive and preventive action, which would be inexcusable

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toward a notorious coward. A stranger may reasonably indulge from the appearance or threats of a mob apprehension that would be unpardonable in a citizen surrounded by his friends and neighbors.

Bearing these observations in mind, let us look at the situation of the defendants. They were attacked at their hotel, which, for the time being, was their house. They were strangers, and a fierce mob had gathered around them, indicating, both by word and deed, the most violent intentions. They were three small, weak men, without friends—for even the proprietor of the house, who should have protected them, had become alarmed, and left them to their fate. Their enemies were, comparatively, giants—dangerous in appearance and desperate in action. Was there not ample ground for the most fearful apprehensions?

But the district attorney says they are not entitled to the benefit of the law of self-defense, because they came down to supper, and thus placed themselves voluntarily within reach of the danger. According to his view of the case, they should have remained in their chamber, in a state of siege, without the right to sally forth even for provisions; while the enemy, cutting off their supplies, would doubtless soon have starved them into a surrender. But it seems there was a private entrance to the supper table, and they should have skulked in through that. No one but a craven coward, unworthy of the privileges of a man, would have followed such a course. The ordinary entrance to supper was through the barroom. They had a right to pass this

way; no law forbade it. Every principle of independence and self-respect prompted it. And through that barroom I would have gone, as they did, though the floor had been fresh sown with the fabled dragon's teeth, and bristling with its crop of armed men.

I care not whether the assailing party had deadly weapons or not; though I will, by and by, show they had, and used them, too. But the true question is, whether the defendants had not good reason for believing them armed and every way prepared for a desperate conflict. I have shown already that Dr. Wilkinson and Murdaugh did not transcend the most technical principle laid down by the commonwealth's attorney; not even that which requires a man to run to the wall before he can be permitted to defend himself—a principle which, in practice, is exploded in England, and never did obtain in this country at all. But, says the learned attorney, Judge Wilkinson interfered and took part before he was himself attacked; he had no right to anticipate the attack upon himself; he had no right to defend his friend; he had no right to protect his brother's life. Now I differ from the worthy counsel on all these points. I think he had a right to prevent, by anticipating it, violence upon his person; he had a right to defend his friend, and it was his sacred duty to protect his brother's life.

Judge Wilkinson was the most obnoxious of the party; his friends were already overpowered; he could not expect to escape; and in a moment the whole force of the bandit gang would have turned upon him.

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The principles of self-defense, which pervade all animated nature, and act toward life the same part that is performed by the external mechanism of the eye toward the delicate sense of vision—affording it, on the approach of danger, at the same time, warning and protection—do not require that action shall be withheld till it can be of no avail. When the rattlesnake gives warning of his fatal purpose, the wary traveler waits not for the poisonous blow, but plants upon his head his armed heel, and crushes out at once “his venom and his strength.” When the hunter hears the rustling in the jungle, and beholds the large green eyes of the spotted tiger glaring upon him, he waits not for the deadly spring, but sends at once through the brain of his crouching enemy the swift and leaden death.

If war was declared against your country by an insulting foe, would you wait till your sleeping cities were wakened by the terrible music of the bursting bomb? till your green fields were trampled by the hoofs of the invader, and made red with the blood of your brethren? No! you would send forth fleets and armies; you would unloose upon the broad ocean your keen falcons; and the thunder of your guns would arouse stern echoes along the hostile coast. Yet this would be but national defense, and authorized by the same great principle of self-protection, which applies no less to individuals than to nations.

But Judge Wilkinson had no right to interfere in defense of his brother; so says the commonwealth's attorney. Go, gentlemen, and ask your mothers and sisters

whether that be law. I refer you to no musty tomes, but to the living volumes of Nature. What! A man not permitted to defend his brother against conspirators? against assassins, who are crushing out the very life of their bruised and powerless victim? Why, he who would shape his conduct by such a principle does not deserve to have a brother or a friend. To fight for self is but the result of an honest instinct which we have in common with the brutes. To defend those who are dear to us is the highest exercise of the principle of self-defense. It nourishes all the noblest social qualities, and constitutes the germ of patriotism itself.

Why is the step of the Kentuckian free as that of the bounding deer? firm, manly, and confident as that of the McGregor when his foot was on the heather of his native hills and his eye on the peak of Ben Lomond? It is because he feels independent and proud; independent in the knowledge of his rights, and proud in the generous consciousness of ability and courage to defend them, not only in his own person, but in the persons of those who are dear to him.

It was not the blood that would desert a brother or a friend which swelled the hearts of your fathers in the "olden time," when in defense of those they loved they sought the red savage through all the fastnesses of his native forest. It was not such blood that was poured out, free as a gushing torrent, upon the dark banks of the melancholy Raisin, when all Kentucky manned her warrior sires. They were as bold and true as ever fought beneath a plume. The Roncesvalles pass, when

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fell before the opposing lance the harnessed chivalry of Spain, looked not upon a braver or a better band.

Kentucky has no law which precludes a man from defending himself, his brother, or his friend. Better for Judge Wilkinson had he never been born than that he should have failed in his duty on this occasion. Had he acted otherwise than he did, he would have been ruined in his own estimation and blasted in the opinions of the world. And young Murdaugh, too; he has a mother who is looking even now from her window, anxiously watching for her son's return; but better, both for her and him, that he should have been borne a bloody corpse to her arms than that he should have carried to her, unavenged, the degrading marks of the accursed whip.

But there was danger, as well as degradation. Their lives were in imminent hazard. Look at the cuts in Murdaugh's hat and upon his head, the stab received by the judge, and the wounds inflicted upon the doctor. Besides the overwhelming superiority in number and strength, the conspirators had very greatly the advantage in weapons. We have proven the exhibition and use by them of knives, dirks, a sword cane, and a pistol, without counting the bludgeons which, in the hands of such men, are weapons little less deadly than the others.

Need I dwell longer upon this point? Need I say that the defendants are no murderers? that they acted in self-defense, and took life from necessity, not from malice?

But there is a murderer; and, strange to say, his name

appears upon the indictment, not as a criminal, but as a prosecutor. His garments are wet with the blood of those upon whose deaths you hold this solemn inquest. Yonder he sits, allaying for a moment the hunger of that fierce vulture, conscience, by casting before it the food of pretended regret, and false but apparent eagerness for justice. He hopes to appease the manes of his slaughtered victims—victims to his falsehood and treachery—by sacrificing upon their graves a hecatomb of innocent men. By base misrepresentations of the conduct of the defendants, he induced his imprudent friends to attempt a vindication of his pretended wrongs by violence and bloodshed. His clansmen gathered at his call, and followed him for vengeance; but when the fight began, and the keen weapons clashed in the sharp conflict—where was this wordy warrior? Aye, “Where was Roderick then?” No “blast upon his bugle horn” encouraged his companions as they were laying down their lives in his quarrel; no gleam of his dagger indicated a desire to avenge their fall; with treacherous cowardice he left them to their fate, and all his vaunted courage ended in ignominious flight.

Sad and gloomy is the path that lies before him. You will in a few moments dash, untasted, from his lips the sweet cup of revenge; to quaff whose intoxicating contents he has paid a price that would have purchased the goblet of the Egyptian queen. I behold gathering around him, thick and fast, dark and corroding cares. That face which looks so ruddy, and even now is flushed with shame and conscious guilt, will from this day grow

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pale, until the craven blood shall refuse to visit his haggard cheek. In his broken and distorted sleep, his dreams will be more fearful than those of the "false, perjured Clarence"; and around his waking pillow, in the deep hour of night, will flit the ghosts of Rothwell and of Meeks, shrieking their curses in his shrinking ear.

Upon his head rests not only all the blood shed in this unfortunate strife, but also the soul-killing crime of perjury; for, surely as he lives, did the words of craft and falsehood fall from his lips, ere they were hardly loosened from the Holy Volume. But I dismiss him, and do consign him to the furies—trusting, in all charity, that the terrible punishment he must suffer from the scorpion lash of a guilty conscience will be considered in his last account.

Johnson and Oldham, too, are murderers at heart. But I shall make to them no appeal. There is no chord in their bosoms which can render back music to the touch of feeling. They have both perjured themselves. The former cut up the truth as coolly as if he had been carving meat in his own stall. The latter, on the contrary, was no longer the bold and hot-blooded knight, but the shrinking, pale-faced witness. Cowering beneath your stern and indignant gaze, marked you not how "his coward lip did from its color fly," and how his quailing eye sought from floor to rafter protection from each honest glance?

It seems to me that the finger of Providence is visible in the protection of the defendants. Had this affair occurred at Mr. Redding's coffeeshouse, instead of the

Galt House, nothing could have saved them. Their lives would have been sworn away, without remorse, by Redding and his gang. All that saved them from sacrifice was the accidental presence of gentlemen whose testimony cannot be doubted, and who have given an honest and true account of the transaction.

Gentlemen of the jury, I shall detain you no longer. It was, in fact, a matter of supererogation for me to address you at all, after the lucid and powerful exposition of the case which has been given by my respected friend, Colonel Robertson. It was doubly so when it is considered that I am to be succeeded by a gentleman (Judge Rowan) who, better perhaps than any other man living, can give you, from his profound learning and experience, a just interpretation of the laws of your State; and in his own person a noble illustration of that proud and generous character which is a part of the birthright of a Kentuckian.

It is true I had hoped, when the evidence was closed, that the commonwealth's attorney might have found it in accordance with his duty and his feelings to have entered at once a *nolle prosequi*. Could the genius of "Old Kentucky" have spoken, such would have been her mandate. Blushing with shame at the inhospitable conduct of a portion of her sons, she would have hastened to make reparation.

Gentlemen, let her sentiments be spoken by you. Let your verdict take character from the noble State which you in part represent. Without leaving your box, announce to the world that here the defense of

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one's own person is no crime, and that the protection of a brother's life is the subject of approbation rather than of punishment.

Gentlemen of the jury, I return you my most profound and sincere thanks for the kindness with which you have listened to me, a stranger, pleading the cause of strangers. Your generous and indulgent treatment I shall ever remember with the most grateful emotions. In full confidence that you, by your sense of humanity and justice, will supply the many defects in my feeble advocacy, I now resign into your hands the fate of my clients. As you shall do unto them, so, under like circumstances, may it be done unto you.

The jury found all of the defendants "not guilty."

The Trial of Reuben Dunbar

SOME years ago, near the town of Westerlo, New York, two children, Stephen V. Lester and David L. Lester, aged eight and ten years, respectively, were murdered. The body of the younger boy was found in the bushes of some woods near his home. The other one was found close by suspended from a tree. It was a fearful, brutal murder. One Reuben Dunbar was the last person with whom the children had been seen, and suspicion pointed to him as the perpetrator of the deed. The children resided with their uncle, David Lester, stepfather of Reuben Dunbar, who, likewise, was living with said David Lester. Dunbar was arrested and placed on trial. The prosecution said that Dunbar wished to become the heir to the Lester estate, but the children were in the way. This was assigned as the motive for the crime. The evidence was entirely circumstantial. District Attorney S. H. Hammond made one of the most powerful pleas for conviction ever heard in the courts of New York.

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Mr. Hammond's Argument

GENTLEMEN of the jury, the melancholy tragedy in which you and I have been prominent actors is now drawing to a close. The last scene is now passing, and when the curtain falls, the prisoner at the bar will be acquitted of the solemn charge of which he is accused or the shadows of eternity will be closing around him.

It has been said that the prosecution is looking for a victim and seeking for a triumph here. God forbid that that should be the truth! God forbid that I should make the life of my fellow-man a stepping-stone to fame or professional renown, or use it as the means of making for myself a name. If, in this trial, I have overstepped the bounds of my duty, it is with lasting regret. I remember that at home the prisoner has a wife as yet in her bridal robes! I remember he has a mother in bitter anguish! He has kindred, too, with deep feeling. As a man I can pity him, and could wish for the sake of those to give him back to them. But my duty calls me, and I have nothing to do with the broken-hearted wife, the mother's anguish, or the kindred feelings of near relatives. Those are the melancholy events which follow the track of crime. It is one of the results of crime, and involves the innocent as well as the guilty. Perhaps it is well it should be so. Those are some of the links which hold us to virtue and prevent us from falling into the dark grave of infamy and disgrace. But,

gentlemen, with that sympathy I would say we have nothing to do. Ours is the hard task of meting out justice to this man. A crime at which humanity revolts and God holds in abhorrence has been perpetrated—and in vindication of that common humanity I invoke the retribution of justice against the perpetrator, not for the purpose of securing a victim, but for the reason that justice demands it.

Gentlemen, sum up the facts. The children were murdered; these are the weapons; they were in possession of the prisoner; we call on him to tell where he saw the children last, and he differs widely in regard to time; he was in possession of the children; he was in possession of the instruments with which they were killed, and we call upon him: "Cain, where is thy brother Abel?" Does not the link of circumstances fasten this murder to him?

But go with me to the tree. Look up amidst its branches and see the horrible fruit it bears! It is the little child! How came he there? Conviction flashes upon the mind that he never got there by his own means. Look upon his feet; he is barefooted. On a close inspection of the tree we see marks upon it, and witnesses are called upon to speak as to what would make them. Mr. Slade says they are like the marks which would be made by the nails in a boot or shoe. Mr. Van Leuven—that prophet, as the counsel says, and I believe to God, a true prophet in this instance—saw the marks. They saw them before the fruit was plucked. Many others witnessed them and have so sworn upon the trial, and

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all describe them alike or nearly so. They looked upon the limb and there they saw the print of the same foot-step. Those marks were never made by the bare feet of any child. The body of the tree indicates that it was climbed by a man having boots upon his feet with nails in the soles. The counsel was there (Mr. Chittenden). They examined the tree together. He was called upon the stand and, if he did not see those marks, why was he not asked the question? Sir, if there were no marks upon that tree (addressing Mr. Wheaton), you did not stick to your client closer than a brother, nor like the poisoned shirt in the fable.

When we stood by the forest tree and saw the little child suspended from the branch; and saw that some man had climbed that tree with boots on his feet with nails on them; when we found that the prisoner had boots on that day corresponding with the marks made upon the body of the tree; when we took into consideration the fact of the child's being in his possession; of the rope also being in his possession; when we looked on the tree and found the marks; when we looked on the prisoner and found that he wore boots which made such marks—I say, were we not inevitably led to the conclusion that he was the guilty one?

There are other circumstances. During the search George Adriance says: "Boys, look in the trees as well as on the ground and around the trees." Prisoner replies: "There is no use in looking in the trees; such boys as them won't be found there"; and his counsel says that was a natural suggestion. If he was a guilty

man, he would have charged them as he did charge them. Necessity was pressing him onward. He was in the hands of God! How he watched the grounds consecrated by guilt!

Remember that on Sunday morning before suspicion of the death of these children was entertained by anyone; while it was supposed that they had wandered away, the prisoner said, in answer to a question asked him: "If they were men, people might think they had money and had been murdered for their money; but anybody might know *they* had no money, and what man under the whole canopy of heaven would murder those innocent children?"

Now, gentlemen, tell me why it was that this conjecture as to the probable *murder* of those children should fall first from his lips? Why was it that from him alone should be heard the first lisp in regard to their probable fate? Why was it that he should be first to suggest and first to repudiate the idea of their destruction? It was because the mighty secret of the fact was in his heart. It was the overwhelming consciousness of guilt stirring within him. It was nature overburdened with the terrible load that spoke. It was conscience writhing beneath the stupendous and crushing weight. It was fear, remorse, terror—remorse for the past, terror for the future. Spectral shadows were flitting before him. Specters of those dead children, with their broken and mutilated faces, gasping in the agonies of death. Specters of the judgment, of this terrible ordeal of trial for his life. Specters of the

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prison, the gallows, and a grave of infamy. These things were before and around him; they haunted his footsteps and forced him to speak.

Gentlemen, it is ever thus with guilt. It will force its way into speech and be its own betrayer. It feels that suspicion will arise. It sees it in every eye; it beholds it in every face; it hears it in every whisper. It is concealed in every bush and rustles in every leaf that stirs in the breeze. The murderer, as he steals along, sees in all things one great, staring, all-pervading eye looking into his very nature, gazing into the recesses of his heart, and, like his own conscience, looking upon the uncovered deformity of his guilt. It is when his heart is thus full that he will speak, not to confess crime, not to implore mercy, but to give utterance to a lie, to turn away that great, staring, terrible eye that looks so straight down into the depths of his depravity. And how appropriate was the remark: "What man under the whole canopy of heaven would murder those little innocent children?"

What had they done to excite the malice of a man?
What did they possess to excite the cupidity of a man?
Who but

Some infernal demon sent
Fresh from his penal element

could have taken *their* young lives?

Gentlemen, a vision is passing before me. I see the trusting and innocent face of that younger child looking beseechingly into that of his murderer. I hear his

voice pleading for mercy, supplicating for his life. I see his little arm raised to ward off the blow that is to destroy him. I see this terrible weapon flashing in the sunlight. I hear it as it crashes through skull and brain, and the death shriek of the little child is sounding in my ears. I see his warm blood oozing out upon the ground. I see his quivering limbs subsiding into quietude, and the rigidity and stillness of death is settling down upon them. I see his murderer standing beside him. There is no relenting in his face, there is no staying of his hand. I see him piling rocks upon that little head, covering the face with stones, as if to shut out its accusing eye, though dim and faded in death. I see him hurling this rock upon the chest of that little child, and I hear the cracking of the bones as they yield to the blow. Who is it that stands thus demonlike beside that mutilated corpse? Who is it that, when the work is done, thus horribly finished, gazes upon it with fiendish delight and smiles over the destruction he has wrought?

Another vision opens upon my view. I am standing in the green woods; tall trees are around me; the little birds are sporting in the branches and the autumn winds are rustling amidst the leaves. I see a little child struggling in the hands of a strong man. The grasp of that strong man is on the throat of that little child. I see his face darken, his tongue protrude from his mouth, his eyeballs starting from their sockets. God of my father, he's strangling him! A spell is upon me! my blood freezes in my veins! my limbs are palsied! my

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voice cleaves to my jaws! I have no power to succor! I have no ability to save! Where is the arm of the Almighty that it does not strike the murderer into annihilation? Where are his lightnings that they do not blast him? Too late! too late! I see the form of that child sink down upon the earth; his hands quiver for a moment and all is still; death is written on his face, and his mother will hear the loved voice of her darling boy never again! She will imprint a kiss upon that brow never again save the last one when she lays him in his coffin and surrenders him to the grave. I see the murderer beside him. I look upon his face; I have seen it once before. It is burned into my memory as with an iron brand.

But what waits he for now? Why stands he thus gazing upon that lifeless corpse? Why gloats he over that soulless clay? Seeks he more than life? Aye! he must hide his guilt, he must conceal his crime. I see him dragging that little corpse into a forest tree. I see him suspending it there like some ponderous and horrible fruit, a prey for the carrion birds. Who is this demon whose hand is thus red with a double murder—whose soul is leprous with the blood of those little children?

Gentlemen, the voice of those little ones, stifled though it be in blood, speaks to us through this evidence; it goes to our hearts; it convinces our understandings; we feel that truth hangs upon their accents as they whisper in a still small voice from the grave into which they were so cruelly thrust: "*He is the man! He is the man!*"

And yet said the counsel: "Wait! wait! this great crime cannot always be concealed; the birds of the air will proclaim it; Providence will one day work out the revelation and give this mystery of crime to the world's knowledge." I tell you, gentlemen, the veil of concealment *has* been withdrawn. The birds of the air *have* proclaimed it; Providence *has* spoken and *does* speak to us through this evidence. This great mystery of guilt has been revealed. Wait not a moment! the hour has come, and the man—the murderer—is before you; your hand is upon his neck, and I charge you, as you love justice and hate iniquity, as you would visit with the law's retribution the author of such gigantic crime, as you would answer to the cry of blood calling to you for vengeance, loose not your hold upon him. Let the eloquence of counsel appeal to you in vain, let not this mawkish sympathy make you for a moment falter. Let those pictures of desolation, of the immutability of your verdict, of the gallows which it will erect and the grave to which it will consign this man, drawn but to frighten your manhood, pass you as the idle winds. Loose not your hold upon him! Let this purchased agony, these hypocritical tears, this hollow pretense of faith in his innocence, shake no nerve. Let these appeals to your sympathies, your pity, and your fears fall hurtless around you. Loose not your hold upon him.

Break through these entanglements thrown around this crime by the ingenuity of counsel. Scatter this web woven for the protection of guilt. Rend it from around him. Dash through those hollow devices, and let them

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be in your hands as the frail texture of the spider's web. Loose not your hold upon him. Cling to him with the grasp of destiny. Stick to him like the poisoned shirt of the fable. Coil around him like the serpents of the sea around Laocoön. Loose not your hold upon him! As you would preserve your own firesides from desolation; as you would protect your little ones from the assassin's knife; as you would stand sinless before God with souls unstained by the blood of those little children, loose not one muscle of the grasp with which you hold him.

Now, gentlemen, it is said that we must show a motive for the perpetration of this deed. That we must show an adequate motive, gentlemen, I deny. Counsel said that some laboring man who wished to satisfy some revenge, committed this horrible crime—some wandering man. But where is the track—the footsteps of such a man? Now what motive can be found to move a man to commit such a horrible crime? There is no adequate motive to be found. Guilt, gentlemen, will weigh down the wealth of princes. Guilt in one scale, gentlemen, will weigh down all the gold Solomon gathered from Ophir. Gentlemen, let us look at the motive of the prisoner. "Here I have been working on his farm," reasoned the prisoner when he sought his motive; "he has reared me—I am the son of his wife, and these children are not as near him as I am, yet they will be his heirs." Now, gentlemen, this is not an adequate motive. There is no adequate motive for the perpetration of this crime—yet may he not have used this one?

If this man is guilty, if you believe he perpetrated

this horrible crime, you will find but little to excite your sympathies in his behalf. You are men possessing human feelings, and the memory of those little ones, their blood which was so cruelly shed, their innocence and their destruction, will make you rejoice that swift judgment should overtake their murderer. And you will not regard death as too severe a penalty 'for the deep damnation of their taking off.' If he is guilty, who shall say he ought not to die? If he is guilty, who will stand up here, with the blood of those innocent children steaming up from the earth that drank it, with their broken and mutilated faces glancing before his vision, with their shriek of mortal agony sounding in his ear; who will dare stand up here and with these things before his mind's eye plead for the life of this man and say that his doom is too hard?

In the dark annals of crime where human depravity has reveled in human blood, there are instances in which the penalties inflicted by the law, though they sweep the culprit from a life he has dishonored, are but illy commensurate with deserved retribution. Such instances are rare, and I thank God that it is so. It is but once in a generation that a crime like this, so full of all that is demoniac and cruel, so full of cold blood and heartless depravity, occurs. You and I will never know its fellow. The tide of guilt will roll on, bearing upon its bosom the record of a thousand crimes, but it will waft upon its dark and turgid billows no crime like this. Robbery and rapine will be there; perjury and plunder, fraud and kindred villainies will be there; and

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violence and blood will be there; but there will be no such atrocity as this. It will stand in the history of the times in which we live as a monument to mark the extreme boundary of human depravity, and men will rejoice that the law, humane even in its severest inflictions, has done what law could do to provide a fitting punishment. It is well—I appeal to you and ask you if it is not—that there is upon our statute book a remedy against such gigantic depravity; that he who furnishes such a stupendous libel upon man, upon nature, and against God himself, should also furnish the dark example of the retribution which should follow. I repeat it, gentlemen, this crime will find no parallel in the history of this generation. It will stand out solitary and alone. Shall it remain as an evidence of the impotency of human tribunals to measure out its punishment? Shall impunity from punishment stand out with this great crime? and while the one fills the heart with horror at its atrocity, shall the other excite its amazement at the weakness which shielded its perpetrator from the penalties written against it? That question, gentlemen, is for you to answer, and history will bear the record of your answer. See to it, gentlemen, that it contains no libel upon the institutions of your country. See to it that it tells no tale of weakness, of that nervous shrinking from the performance of a great and solemn duty which has thrown so many gigantic criminals back upon society to plunder and slay anew.

I ask not that you should be vindictive in your verdict. I ask not that you should be thirsty for the blood

of this man. But I *do* ask of you the firmness of men feeling the high responsibilities of their oaths, and upon whom rests the just administration of the laws. Judge him in honesty and truth, looking for wisdom to guide you to that source whence all true wisdom flows. If, after such preparation, the solemn convictions of your understandings are that he is guilty, then pronounce him so. Let justice have its course. Let this cry of blood, innocent and pure, that comes up to us from the ground, be silenced by the punishment of him who shed it. Let the law have its course, and, believe me, gentlemen, the moral effect of your verdict will tell upon the future.

The hand of the murderer will be stayed by it. When he steals to the destruction of his victim, he will remember the doom of this man—the sternness with which justice pursued and punishment was meted out to him—and his arm will be palsied by the reflection. When he lies in wait for blood, your verdict and the gallows which it will have erected will stand out before him like spectral shadows of the night to frighten him from his guilty purpose. It will reclaim to the world that for such a great crime there is sure punishment; for such stupendous guilt there is swift retribution; and that justice, with its penalties, will track out him who thus wantons in human suffering; who thus dips his hand in human blood; who thus tramples on human laws and sets heaven itself at defiance.

Dunbar was convicted, and died upon the gallows.

The Vindication of Crawford Black

THE trial of Crawford Black for the killing of W. W. McKaig, Jr., occurred in April, 1871, at Frederick City, Md., before the Circuit Court of Frederick County. The killing of McKaig took place at Cumberland, in the county of Alleghany, but the prosecution made a motion for a change of *venue* and the motion was granted.

The contention of the defense was that McKaig had seduced Black's sister and had threatened Black and tried to take his life; that Black, therefore, had a double defense—his sister's cause and his own.

The evidence was clear that McKaig and Black met—weapons flashed—McKaig fell dead—and Black exclaimed: "Now seduce another sister of mine!"

The trial was a notable event and excited interest all over the country. Among the counsel engaged for the defense was Hon. Daniel W. Voorhees, "The Tall Sycamore of the Wabash." Mr. Voorhees was at one time United States Senator from Indiana and was one of America's foremost criminal lawyers. His address to the jury on this occasion was one of the most brilliant pleas ever heard in the courts of any country.

Senator Voorhees's Address

GENTLEMEN of the jury, we have now reached that point where it becomes my duty to address you. In doing so I have but one thought and but one purpose. I believe with fixed and solemn convictions in the innocence of the young prisoner who is here by my side, and I shall try, while I stand before you, to make manifest the grounds of my belief, and to the utmost extent of my humble powers to obtain for them the consent of your minds.

Allusion has been made to my position as counsel here. It is true that I live in a distant State, but I cannot feel that I am a stranger to you. We are allied to each other by many ties. We are husbands, fathers, and brothers. We have wives, sisters, and daughters. These vital and precious domestic relations form all mankind into a universal holy alliance. By them you and I are acquainted. We understand each other by their promptings. Let us come close to each other in this discussion. I can have no purposes that ought not to be yours. As a citizen of this great country desirous of the welfare of the people, desirous of the supremacy of the laws, I cannot invoke any results that you ought not also to desire. We are all wedded to the public good. We do not want to destroy the peace and good order of human society. Good or evil to you and yours is the same to me and mine. A blow at your peace and homes is a blow at all the homes in the land, and an assault upon



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the humblest family circle puts in peril everything that we all hold dear. We meet, therefore, upon a common level, and in a plain and simple manner I expect to speak to you in this spirit.

There is one consolation that I have in rising to address you that presents itself to my mind at once. I have stood before juries quite often, but never before, in the whole range of my experience, have I known a man arraigned for murder who produced such a record of character as has been produced here. All the powerful presumptions of a virtuous and well-spent life arise as the very opening of your deliberations in favor of the defendant. By the light of the proof let us see who it is that we are trying. You have your fingers on his pulse. You are measuring his life, and the manner of that life is all before you. He is young—but twenty-four years of age. How much of usefulness and manly life he has crowded into that brief space! If one of your sons of that age were arraigned for a high crime, how proud you would justly feel if you could call, as has been done in this case, from every quarter and from every class everybody who had ever met him, everybody who had ever done business with him, and receive from them all one unbroken strain of commendation and eulogy! The aged and gray who have known Crawford Black from his infancy have here in your presence praised his pure and blameless life. His young comrades have spoken of him as an example far beyond his years. His fellow-prisoners during the war describe him as a model amidst the hard and demoralizing scenes of prison life. The

dusty miners from Piedmont, as well as Members and Senators in Congress, come here to bear their voluntary and affectionate testimony in his favor. He does not pass this ordeal alone; he has the sweet reward of virtue in the presence and consolation of those whom his good conduct has attached to his fortunes; and the voice of reason, as well as law, proclaims that such a man is not a criminal. He is not familiar with the walks of vice where criminals are made. His hand and his heart are free from the guile and the practice of crime, and yet the learned gentlemen for the prosecution insist that he stands now at the foot of the scaffold, soon to ascend its desperate heights for the commission of a crime without a parallel in the eye of the law. Pure, innocent, and virtuous up to this time! Do men of that kind, without just provocation, enact deeds of bloodshed? If they commit what seem to be violations of law, are they not always upon the most dreadful and imperative causes? It is this presumption which gives to character its priceless value when the motives and conduct of a human being are under investigation. But such a reputation as the defendant here produces is usually the growth of a long life, and is seldom the accompaniment of early youth. Recall in your minds at this moment the friends and neighbors by whom you are surrounded at home. The best and most reliable are those of longest standing. Some you have known for more than a quarter of a century. You have seen their heads whiten as the winters and summers have come and gone. Their characters are good and solid. Little

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by little, day by day, week by week, month by month, they have built them up as firm as your beautiful mountains; but it has been the labor of long years. How much more should your hearts lean to a mere boy, who has not had much time, and yet comes into court with a character that the old men of the country might be proud to produce. He has had but few years, but in them he has been so prone to virtue, so free from vice, so free from evil associations, that he has not a spot or stain or blemish. Show me another boy in these bright valleys who went from home at seventeen years of age, had an army experience—always terrible—tasted the horrors of the prison house, came out untainted in soul and body, went to the far West into the employ, as chief clerk, of a heavy mercantile house, returned with warmest testimonials, became at twenty-two the superintendent of one of the foremost mining companies of the Alleghanies, winning at all times and places and circumstances golden opinions, and nothing but golden opinions, from all sorts of people; show me, I say, another boy like this beside me within the range of your acquaintance who has borne or can bear the mighty tests to which the prisoner has been subjected, and you will find him the cherished object of universal regard, beloved by the fathers and welcomed by the mothers into every domestic circle as a model for their sons and an associate for their daughters. Can the mark of Cain rest upon the brow of such a one? Can the ineffaceable brand of bloody guilt be there? Such an assertion is a perversion of all the laws of human nature. The tree shall be

known by its fruits; the thorn and the thistle do not bear delicious figs, and a life of innocence and peace does not bloom and ripen of a sudden into a harvest of atrocious crime.

If we were defending, indeed, a criminal, one whose character we did not dare put in issue, with blotches and stains upon him, how different would be our feelings and our positions. But now we come with all our hearts clinging closely to the defendant in his peril, believing, earnestly believing in him and in his innocence from the very depths of our souls; and we have no fear. The weight of a good name is recognized in the books of law, but over and above all it is recognized in your own hearts. When the Hebrew children were cast into the furnace with its sevenfold heat, there appeared to the astonished gaze of the Babylonish king another form, of celestial aspect, walking with them in the midst of the flames, and comforting them under their fiery afflictions. So is Crawford Black's good name this moment hovering near him, like a beneficent angel, to guard, to bless, and to protect; and when he emerges from this trial his raiment will not be scorched nor have the smell of fire.

Gentlemen, mention has been made of the change of *venue* in this case. I have something also to say on that subject. The McKaigs are a powerful, able, intellectual, and wealthy family. That family, with its numerous connections, represents, I am told, more wealth than any other five families in Alleghany County. The prisoner has no means of his own, and no kindred

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nearer than cousins who have. He is poor, and so is his father, and, except through distant kindred, he has not a dollar to aid him; yet he was so strong in the community where the deed was done, and his defense sprang up so powerfully in the hearts of all, that the influence of the McKaigs melted like a mountain mist before the opening dawn. They dared not meet this stripling youth at their own homes. They fled from their native heaths. There these two young men were born; there they were reared; there one was slain and the other awaited his trial. Upon the side of one is numerous kindred, strong, accomplished, intellectual, and full of life and power. On the other is merely a good cause and a good name; nothing more; and yet what a scene I witnessed in January last in the county of Alleghany! I never beheld the like before, and hope never to again. I saw an American State seeking to convict a man of crime, though afraid to put him upon his trial where the alleged crime was committed. It was his right there to be tried. My associate counsel has read to you the Constitution of Maryland, with its bill of rights. It is there declared that one of the principal rights of the citizen is to be tried where the facts arise. When our forefathers alleged the causes on which they fought King George seven bloody years, they laid down as a marked grievance that he transported American citizens beyond the seas to be tried for offenses committed here. It was one of the prominent causes for which our fathers bled, for which Smallwood's Maryland regiment charged on the battlefields of the Revo-

lution. They fought for the right of trial where the offense was committed; the right to be tried by their peers and neighbors; the right to be tried where witnesses are known. The counsel for the prosecution in this case seek to invalidate the testimony for the defense. How dare they assail men in this community whom they were unwilling to confront in Cumberland where they are fully known? Gentlemen, they ask you to do what an Alleghany County jury would not do. They come away from that county and ask you to do a deed of horror that no jury there would commit. How stands this case? The State of Maryland says: "Alleghany County acquits the prisoner, but we ask Frederick County to convict him." He has already one verdict of not guilty in his favor. The State said Alleghany County would not convict him; thereupon a change of *venue* was taken. It amounts to one verdict of not guilty. It is a confession on the part of the prosecution that the county where he was born, where he was reared, and where McKaig was born, where he was reared, and where he fell, will not convict the defendant.

The attorney-general spoke of the scenes of Colonel McKaig's funeral in Cumberland—that the stores were closed and mourners went about the streets as if a great public calamity had befallen the city. If this dramatic picture is true, if there was a deep sense of wrong and outrage in the breasts of the people against Black, why is he here for trial? If stores were closed, if there was burning indignation, if there was grief over the loss of

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an unoffending citizen, why are we not all in Cumberland rather than in Frederick? What did this prosecution flee from? Why did it flee at all? It fled hoping to hide from a jury the true causes of this disaster. The public mind was too full of knowledge where all the facts were known. The very air was full of the wrongs inflicted by the deceased upon the defendant and his family. It was too well known by the entire people that there was one desolate home, one ruined daughter, one frantic father, one broken-hearted mother, and one outraged, insulted, and menaced brother and son in their midst. The witnesses by whom we have proved McKaig's assault upon Black on that fatal morning were also too well known in that community to suit the purposes of the prosecution. This prosecution fled from another fact. A jury in Cumberland could inspect the premises and examine the ground where the collision took place. They could see the exact position these parties bore toward each other; they could determine where McKaig came from, where he was, how he crossed the street, whether there was a natural crossing there, and that Black did not seek him by crossing the street, but that McKaig sought Black. All *that* could be seen by the jury there, and all *that* we lose by being brought here. This course upon the part of the prosecution is virtually a *nolle prosequi*. It amounts to a dismissal so far as the county of Alleghany, where the trial properly belongs, is concerned. In my judgment this law that allows the State to drag a prisoner from his home for trial, to trans-

port him from the location of his conduct, is unconstitutional, is not in accordance with the Constitution of the United States and not in accordance with the Constitution of Maryland. I believe, whenever this question is raised and the law tested, it will be so decided.

But we come now to a close and patient examination of the facts in detail of this sad and dreadful tragedy. I will ask you to start with me at Piedmont on the Saturday evening preceding the fatal Monday morning. There, to my mind, the curtain first rises, bringing the prisoner into mental cognizance of the deceased on the subject which has wrought such widespread ruin. Black and his friend Henshaw were together. Henshaw, not liking to intrude upon such a subject, yet ventured to ask whether the father of the prisoner had yet been indicted. The answer was that he had not. "I thought he would have been," said Henshaw. "Why so?" inquired the prisoner. "Because," said Henshaw, "of what occurred on the fair ground." "Well," said the prisoner, "what did occur at the fair ground? I have never been able to get the truth of that. Father was not in a condition to remember, and mother will not talk to me about it." Henshaw then informed him that the deceased, Colonel W. W. McKaig, had publicly denounced the sister of the prisoner as a strumpet on that occasion. These were the burning, awful words for a brother's ear to hear and heart to feel. They wrung from his pale lips one brief exclamation of agony; he changed color rapidly, and his breast heaved with strong excitement. He grew silent, and, with an

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ashen face, invited no further conversation, and Henshaw attempted no more. He disappears from our view for that night. His tortures are not for us to fathom. In hours of darkness and deepest woe the heart has no confident this side of Omniscience. How that wretched night was spent there is no proof to show, for it passed in solitary despair. The next day dawns on him in Cumberland, now intent upon solving the painful mystery connected with his sister. We find him immediately in conversation with Mr. Lowndes, a relative by marriage, and a gentleman of the highest character and a member of the legal profession. Was he not a most proper person of whom to make inquiry and with whom to advise? Mr. Lowndes not only confirms the statement of Henshaw in regard to the language used at the fair ground, but also informs the prisoner that Colonel McKaig is the seducer of his sister. This is his first information as to the author of his sister's shame and ruin. It is true that he suspected she was in trouble—she was absent from home—but who was to tell this young and hopeful spirit that the idol of his childhood was worse than dead to him? His parents were silent on the dreadful theme in his presence. You heard the stricken and sobbing mother on the witness stand. With tearful eyes and voice she told you that the wrongs of the sister were never mentioned to her brother; that it was a forbidden subject in the little circle of home upon the occasions of the prisoner's brief visits from the mines in the mountains. It was kept, as far as possible, a sealed book to

him; nor is this any new phase in domestic life, or in family histories. How often do we read of one portrait with its face to the wall and its name never mentioned. It is, perhaps, the image of one who, though deeply loved, has planted sorrow and shame in the hearts of the household. The name is to be spoken no more forever. We can speak with a saddened pleasure of the dead who sleep in purity and honor. The memory of their virtues fills our hearts with love and peace, and we train white roses to bloom on their graves. But for one on whom a blight has fallen, beside which the touch of death is merciful, we invoke a deeper silence than the tomb. There is a gallery in Venice where the faces of the doges of ancient days adorn the walls, but the eye suddenly rests upon one vacant panel—no portrait is there. He who should have filled it is blotted from the walls of memory. He fell in an hour of temptation from his high estate, and an oblivion was extended to him by his own and succeeding ages. And so, when the poor deluded girl in this case fell into the snares of the spoiler, and the knowledge of her wayward steps came partially to her suffering parents, they strove to draw an impenetrable curtain around the horrible event; and most of all did they wish to conceal the humiliating and harrowing truth from their son, their only remaining child—their staff and hope in the gloomy and desolate future. His life was dawning with auspicious omens; he was rising rapidly in business; his prospects were brilliant, and well might the father and mother be reluctant to mar them with a grief that al-

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ways ranges in noble natures close upon the confines of madness. They were journeying toward the sunset of life, and wished to bear their burden alone. They sought to spare the prisoner in the bright morning of his existence this bitter cup of which they drank in solitude, and whose wretched dregs they are now draining in public. It was the sublime struggle of deep parental affection and fortitude under the darkest calamity that ever blasts the peace of a home. Their conduct was true to the loftiest instincts that ever adorned the annals of human nature. And so it was that the prisoner, on Sunday, for the first time, and from the lips of Mr. Lowndes, learned of the awful abyss into which his sister had fallen; learned who had led her trusting footstep to the brink and hurled her into its frightful and remorseless depths. The letter in evidence was at the same time shown him, and he was reliably assured that it was written to his sister by the deceased. It conclusively proves criminal intercourse. The writer speaks with an easy and familiar sense of power over his victim. She was plainly the subordinate of his wishes. All this penetrated the heart and brain of the prisoner at a glance. The facts were accumulating upon him with startling rapidity. The night before he had learned of the defilement of his sister's name on the public fair grounds; on this day he was informed that the very man who had hawked her name as a harlot in the midst of gaping and wondering multitudes was himself the author of the ruin and dishonor which had befallen her, and which he thus pro-

claimed. The written proof was placed in his hands. He went next with Mr. Lowndes to his mother. If he hoped for comfort there, for once, at least, he did not find it; rather he found the revolting climax of his misery, shame, and horror. It was disclosed to him that a child, four months old, was then in his sister's arms, at her distant place of retreat, as the result of the treacherous embraces of the deceased. Oh, gentlemen, no tongue can paint the force of this last blow upon a heart already bruised, swollen, and bleeding! The pride of the prisoner's young life—his pride in an honored and unsullied name, in the ties of home and kindred, in the friends he had won, in the career opening before him, was overthrown and trampled in the dust by the haughty and insolent tread of his sister's seducer. At the prisoner's time of life, and with such a nature and reputation as his, how sensitive is the human mind to dishonor! And the fame and good name of mother and sister are then more precious than all this world contains and than life itself. In after years wife and children may divide the bounties of love, but to the pure and upright son and brother who has not yet left the hearthstone of his childhood, the mother that bore him and the sister who has grown up by his side are the tender and cherished objects of all his earthly devotion. It was so with Crawford Black. He felt in a moment all the agony of a whole life suddenly wrecked and covered with disaster. Everything crumbled to pieces in an instant. Hope died and despair took its place in his breast; his bright dreams of the

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future disappeared, and a wall of darkness rose up around him. The sky, so clear before, grew black over his head; he felt, too, that all the world knew the story which was consuming his heart with bitterness and grief. It had been proclaimed by him who best knew its fearful truth. The finger of scorn is a more dreadful instrument of torture than the cruel ingenuity of man ever devised, and the prisoner now knew, for the first time, that it was upon him; that he was pointed at as one on whom the brand of a sister's degradation had been placed by the successful arts of triumphant villainy. In this mood of mind he witnessed the close of that eventful Sabbath day. To others it had been a day of rest; not so to him. To others it had been a day of grace and of blessings; to him it was full of curses and of evil—the darkest day in all the calendar of time. And when night came with its healing influences for the weary and sore-hearted, it brought no oblivious antidotes to pain for this unfortunate prisoner. Who shall tell of the scorpion stings and lashes of that miserable and sleepless night? You have caught glimpses here and there from the mother's testimony of the dismal hours as they slowly passed away. They were laden with the baleful ingredients which kindle a frenzy in the soul and a madness in the brain. Gentlemen, have you ever passed through the deep floods of sorrow? Have you ever walked the floor through the silent watches of the night, praying for the day to dawn, and feeling that the wings of time were loaded with lead? Have grief and woe ever affrighted sleep from your eye-

lids and rest from your hearts? But yours, perhaps, has been the sorrow which comes of death and ordinary bereavement. Here was the blister of shame burning like a hot iron on the prisoner's brow, and a sense of disgrace like a corroding, cankering poison inflaming his brain with a fever which no medicinal drug can allay or cool. The art of the healer stops at the threshold of the diseased mind and sinks down baffled and helpless in the presence of the delirium of woe. Toward day, when all the world was dark and lost to him, when the precious providences of God themselves seemed blotted out like stars in the midst of clouds and storm, he turned his weary steps toward that love which never falters or grows dim, which triumphs over dishonor and death, and shines brightest amidst the wailings of broken hearts and the ghastly ruins of domestic peace and joy. He threw himself by his mother's side to comfort and be comforted in their mutual misery. He laid his bright and manly head where he had slept the placid sleep of infancy. There, sobbing and oppressed, he sought a shelter. The pitiless and merciless storm was pelting him, and 'other refuge had he none.' Mother and son wept together over the erring and the lost. There is often a mercy in tears, but not in such as are shed over a loved one ruined in soul and body. Then the unsealed fountains are scalding and bitter as the waters of Marah. While the parent and child thus lament together, we will turn from this scene of holy pathos and tenderness and consider an important question which here arises in the order of my argument.

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You have been asked with earnest emphasis by the counsel for the prosecution why the prisoner was so crushed and appalled with grief and frenzy against the deceased. You are reminded that we were not allowed by the Court to prove the direct fact of the sister's seduction by McKaig. You will remember our urgent offer to do so, and the determined opposition to such proof on the part of the learned gentlemen for the State. The Court held in your hearing that the information which the prisoner received on that subject was competent evidence, but that the fact itself of the seduction was not an issue before you. Was he informed upon competent authority? Had he a right, as a reasonable and prudent man, to believe that Colonel McKaig had seduced Myra Black, and that she had borne a child as the result of their sinful intercourse? Did the facts, as communicated to him, justify such a belief, and did he entertain it with the deep convictions of an honest sincerity? If so, then his sister's ruin by the deceased became a proven, fixed, and absolute reality in his mind, as much so as if his eyes had beheld or his ears heard the secret deeds of shame over which the deep spell of silence reigns forever. If he believed, then his mind was wrought upon by the power of a sincere faith. His emotions and his conduct were under its omnipotent influence; and in this respect he simply conformed to the great laws which have governed all the races and tribes of mankind since the birthday of human history. You and I believe in the great and merciful Father in heaven, the Creator of the bound-

less universe, yet we have not seen Him, nor hath any man and lived. We believe that the blessed Savior walked the hills and plains of Judea, and died to redeem the souls of men, but our eyes did not behold the majesty of His face, nor our ears drink in the deep and melancholy music of His voice. We believe because we have faith in the sources of our information. We have been told, that is all. The testimony of the ages is ours. Nature throughout her illimitable realms proclaims a God, and the Bible, the Book of books, reveals Him; while the existence and the divine mission of the Messiah are established by witnesses whose evidence we read and accept as true. Upon these sources of faith Christian men and women found their hopes of immortal happiness. They make heaven an immediate reality, and uphold the martyr as he smiles joyfully amidst the blazing fagots at the stake. Nor is the power of human belief over the actions of men lessened because it may be founded in error. The untamed Indian has his faith as we have ours. He has not seen the Manito, but his trust in the happy hunting grounds, the sparkling rivers, and the fadeless verdure of an eternal world is as unfaltering as the bravest disciple that ever died for the cause of the Cross. He sings his death song under slow tortures, recounts his earthly deeds of merit, and anticipates his blissful rewards hereafter with all the calmness and confidence of a Christian philosopher. The Eastern Mussulman worships with sincere devotion at the shrine of Mahomet, and giving full credit to the testimony of his fathers, follows the

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Crescent and rejoices in the prospect of a sensual paradise at the end of life. The Chinaman, the countryman of Confucius, has a faith in his system equally firm and unrelenting. The history of the whole human race forces us to exclaim, "How little is known and how much is believed!" The world of faith is wide, the world of knowledge is narrow. What we think we know best depends mainly upon the credibility of those who have narrated to us the facts. How few of you have crossed the mountains and beheld the valley of the Mississippi! Yet you know that there it lies, stretching from the regions of perpetual snow to the land of unending summer, an empire of present and future wealth and population. What one of this jury has ever beheld the great Father of Waters as he rolls onward to the Gulf of Mexico? Yet you all know that the ceaseless and resistless current is forever there. You have listened to the tales of travelers; you have read their letters and their books, and you are convinced as fully as you could be through the medium of your own senses. I only ask for the prisoner that these universal rules of faith be extended to him in this dark hour of his peril. I do not ask you to shield him if his belief was irrational and unnatural—if he accepted information from unworthy and unreliable persons. Put yourselves in his place. Could he doubt the truth and candor of his faithful and tried friend, Henshaw? Could he distrust his kinsman and adviser, Lowndes? But above all, were not the words of his idolized mother sacred and holy with him? No better, surer founda-

tions of human belief ever challenged the consent of the human mind. Crawford Black as well knew, by the time the sun set on Sunday evening, that McKaig had destroyed his sister as it is given to mortals to know the affairs of this life. No doubt or misgiving for a moment mitigated his anguish. The awful fact stared him in the face with painful and maddening intensity. It confronted him incessantly. It would not down at his bidding. It taunted and mocked him in his sleepless desolation and despair. It tempted his imagination with the appalling details of the victim's surrender and debasement, and the destroyer's triumph and insolence. And if he arose and acted upon this fact and slew the man who had put out the light and joy of an innocent and unoffending household, would his conduct have been without precedent, novel and strange in the history of mankind? There is a very old case and of very high authority on this point. It is the earliest on record. The daughter of Jacob was seduced by a prince of one of the neighboring tribes. Her brothers, Simeon and Levi, were in the fields at their usual avocations when they were told by others of what had befallen their sister. They believed the story of her disgrace, and with their swords, in due time, they acted upon it to the total destruction, not merely of the seducer, but of the whole tribe who supported him in his conduct. And when their father, who was old and apprehensive of trouble growing out of their terrible vengeance, deplored their fierce and sanguinary measures, they gave that memorable answer which has

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sprung to the lips of manly brothers in every age and clime from that hour to this: "Shall he deal with our sister as a harlot?" Human nature is the same to-day as it was then, and Crawford Black simply exclaimed with Simeon and Levi of old. You would cry out in the same indignant words under the same circumstances. You are now asked to punish this young brother in Maryland. Were the brothers in Israel punished? God ruled immediately and directly in the house of Jacob. Are you wiser and more just than your Maker? Will you sit in judgment upon the Almighty and condemn His ways? Should you not rather find out His rulings in a case similar to the one you are trying and then implicitly and humbly adopt them for your guidance? The patriarch and his family, including the two defenders of their sister's honor, were led by Jehovah out from among their enemies, up into Bethel, a place of safety. "And they journeyed; and the terror of God was upon the cities that were round about them, and they did not pursue after the sons of Jacob." They were thus protected, not prosecuted. I may cite other cases hereafter, but with the approval of God upon the conduct of the prisoner I know that I may safely leave this branch of his defense where it now rests.

Gentlemen of the jury, the light of Monday morning at last broke over the hills of Cumberland and brought that dreadful night to a close. The sun of the morning comes with life in its beams to all. It illuminates the hovel and the palace; the home of the heartbroken and the circles of gayety and pleasure. In all its kindly

visitations of human abodes, however, on that morning it lit up no lonelier, sadder, drearier hearthstone than that around which once shone the pure and innocent face of the beloved daughter and sister, to be seen there with the angel light of virtue nevermore. The prisoner went forth from that blighted home, and the hour of retributive justice drew nigh; not by his artifice or device, but by the spirit of the avenging Nemesis who sooner or later overtakes the violators of domestic sanctity. His provocation was already sufficient in the estimation of all the ages of the past to justify the death of McKaig. While he stands, however, on the brow of the hill, and before he descends, weary and heavy-laden, into the town, let us examine still more closely into the relations which the deceased and the accused bore to each other. What were the purposes and feelings which McKaig had deliberately and repeatedly evinced toward Black? One of the oldest and basest principles of human nature was at work in the heart of the deceased. He had wronged the prisoner beyond the reach of forgiveness, and he, therefore, hated him. The scandal, too, of his conduct had become public, and he thought to browbeat all complaining voices into silence. His own domestic peace was doubtless in peril, and it was necessary to overawe the injured family into abject submission. He had met the insane and frantic father and received an assault vaguely mentioned here in the evidence. No danger or menace, however, threatened him any longer in that quarter. The forbearance of the distracted father was secured by indictment and

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heavy bonds. There was but one other who held the honor of the name and the household in his keeping. It was the brave, generous, dauntless being here before you, and it was for him that McKaig wore his daily belt of loaded firearms. Conscience told the deceased that he had forfeited his life to the prisoner. He would have slain the seducer of his own sister like a dog in the highways, and the guilt in his breast bade him beware of the brother of his victim. Perhaps friendly tongues had also warned him of his danger if the accused ever made a full discovery. Thus steeped in crime, I shall demonstrate from the evidence that he sought a collision with Black under circumstances of his own choosing, and with the advantages all in favor of himself. He could not retrace his steps and undo the wrongs he had inflicted. He, therefore, prepared to go forward and wade in blood to a place of safety; a place of security, as he supposed, against the consequences of his own evil deeds. He believed the issue would come, and he became restless and aggressive in order to have it no longer pending. Why else did he rudely jostle the prisoner in Ferguson's saloon? Between friends such an act might pass without significance; but when men are deadly foes; when their hostility is open and proclaimed; when unpardonable wrongs have been given and received; when their blood is full of wrath; when the insulter is armed with weapons of death, then the intentional touch in passing is a threat and a challenge of the deepest and most sinister import. What Lawrence Wilson saw has that meaning and none other. It was

McKaig's palpable purpose to provoke Black into a fight at a time and place of his own selection, and with his preparations doubtless fully made. Wilson is not contradicted. He located the place and fixed the time and mentioned the presence of others on the occasion. The barkeeper was especially identified. If this evidence was untrue; if the deceased and the prisoner were not there at the time named; if the circumstances of insolence and assault did not take place as described, the means were amply furnished by the witness himself for his detection and contradiction. If it was a fabrication, it would have been demolished long ere now. There is power and wealth and the thirst for revenge in this prosecution, and no great fact like this would be left standing if it could have been overthrown. It occurred but two weeks before the fall of the deceased, and throws a full flood of light upon his movements and motives at the final and deadly encounter. Its importance in this case cannot be magnified. It is uncontradicted, and, therefore, conceded that when these two young men are first brought to your view together the deceased was the hostile aggressor seeking to degrade or slay the brother as he had worse than slain the sister. How much longer was Crawford Black to endure? How much more of the proud man's contumely was he to bear? But the hour had not yet come; he knew not yet the full story of infamy which afterwards filled his soul with horror.

But there is yet stronger and more striking evidence of McKaig's deadly purposes toward the accused. John

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Long, born and reared in Cumberland, well known by all, detailed a scene upon the witness stand that will never be forgotten by those who heard it. It is said that the deceased was a brave man. It may be so. I have no doubt he acted with courage in battle. Many have done so, surrounded by admiring comrades, inspired by hopes of distinction, who have faltered in the face of a personal conflict; especially so when not upheld by the consciousness of right. He who hath his quarrel just has a contempt for danger which the heart oppressed with guilt never knows. A troubled conscience makes many strange and devious steps. Many actions that are mysterious to the world would be thus explained if the secrets of all hearts could be laid bare. When John Long saw McKaig watching the prisoner at that street corner with his hand on his pistol, he was but acting in obedience to the hard necessities of his criminal position. The consequences of his evil career were developed in his own character. His own nature was depraved and perverted until we see him, by the light of this evidence, lying in wait meditating what measure of destruction he should next adopt against this unoffending family. It gives me no pleasure to speak these words. The truth is painful to me when it reproaches the dead, but the claims of the living here in this court room cannot be denied. What the immediate intentions of the deceased were while he was waylaying the prisoner, you and I may not fully determine. He may not have entirely comprehended them himself. To my mind he appears on that occasion ir-

resolute, undecided, wavering and halting between the conflicting purposes of his own disturbed and agitated breast; at one moment strongly impelled to confront and assault the prisoner, and the next hesitating and doubting, until the opportunity for decisive action went by. But an effort has been made to discredit Long. In what way? He is a native of Cumberland, and there grew up to manhood, and though his face wears a darker color than yours or mine, yet no man dares to say in your presence that he has not borne as good character for truth and veracity as the loftiest and proudest in that community. Although hundreds of citizens of Alleghany County have attended this protracted trial, and hundreds more could have been obtained in a few hours, yet no impeachment of the reputation of this well-known and vitally important witness was attempted in the remotest manner. This is equivalent to the affirmative support of his credibility by the entire community in which he lives. But at the last moment two zealous colaborers in this prosecution rushed into court and lifted up their hands and voices to contradict John Long—Dr. Dougherty and Smith Johnson! Both admit that they are partisans in feeling against this unfortunate young man, who has never harmed them by word or deed. They tell you that two nights ago, in the dim still hours between midnight and day, when the evil and prowling spirits of the known and unknown world usually commit their nocturnal freaks against the peace of mankind, they inspected and surveyed the localities described by Long, decided

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there in the dark that he could not have seen McKaig where he swore he did see him; took the cars in haste for this city, and arrived just in time to detail their astounding discovery before the testimony in the case was finally closed. Long was examined more than a week ago. There is a line of telegraph and a railroad from here to Cumberland, and there is a venomous energy and power in this prosecution unparalleled in my experience. If Long were false and the locality itself as given by him would expose his perjury, would his contradiction have been left to the finishing details of the case and to the ridiculous testimony of Dougherty and Johnson? No! Scores of men would have been promptly produced, having made careful daylight examinations of the points in dispute and ready to tell you that this great, gigantic fact established by Long was impossible from physical causes. Gross and Ferguson, the proprietors of the saloon, and familiar with the corner where McKaig was seen, with the spot where Long stood, and with the positions of the lamps that have been mentioned, would have been the most competent and proper witnesses on this point. Why were they not called instead of these hasty, prejudiced, midnight surveyors? John Long might and would have been contradicted if his statement had been untrue, but he stands here now uncontradicted and unimpeached. Let the doctor, therefore, assuage his feelings in the use of his scalpel and pills upon his patients, and let him and Johnson both hereafter abandon the business of willing and anxious witnesses against an innocent man

on trial for his life. If they are satisfied with their appearance in this sad drama, I will now drop the curtain, while the audience hoots and hisses them out of sight and out of mind.

But again; Long was faithful to his early playmate and friend. On the distressful Sunday when the fearful truth was rapidly breaking upon the distracted mind of the prisoner John Long met him, as he told you, on the bridge in Cumberland for the first time since he had witnessed McKaig's secret menaces a few days before against his life. His inquiry of him was most natural: "When did you see Colonel McKaig last?" Crawford Black's heart was bitter and sore at that moment. The sound of that name maddened him. His reply to the faithful boy that loved him was stern and angry: "What is that to you?" Grief and humiliation have their right to solitude and exclusion, and the prisoner repelled what he took to be an attempt to invade his confidence and look upon the bleeding wounds of his miserable heart. Long corrected his mistake and narrated to him the recent strange and threatening behavior of McKaig. He put him in possession of every detail. The prisoner listened, and left in silence. He now knew not only that his sister had fallen, but that his own life was hunted. Dishonor had already come, and death was pending. His sister led to her ruin, and then advertised to the public by her destroyer as a common bawd; his aged father reviled, denounced, and prosecuted as a felon for his feeble and vain attempt at redress; and now thoroughly convinced that he himself was to be watched,

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threatened, glared at, bullied, waylaid, and eventually subjected to deadly assault! What more of outrage and provocation can man submit to unless, like a hound, he receives the kick and the lash of his master? Bear in mind that meeting on the bridge and Long's statement. Do not for a moment forget it. Invoke it into your presence when you retire, for with such a notice as he then received the prisoner had the right to kill the deceased whenever he approached him with the slightest evidences of hostility in his movements. No retreat, no delay was after this required of him. Henceforth if he slew McKaig he had a double defense; each one as sure and firm as the everlasting hills. His sister's cause and his own united in their appeal and the spirit of his noble manhood responded; a volcano justly raged within his breast, and Providence dictated the moment of its eruption and the result which followed. The burden of the prisoner was more than he could bear, and he moved and acted as an instrument in the hands of a just God. You are to judge of his conduct as if you had been in his situation. That is your duty to-day. I state it in the hearing of the Court and in the presence of my professional brethren. You are not to estimate his guilt or innocence by the appearance of the circumstances to a cool, indifferent, and disinterested observer. You are to put yourselves in his place, assume his relations to others, imbibe his affections, and survey everything from his point of view; stand with him on the brow of the hill near the old homestead where I left him some time ago; recall to your minds all that he

then knew of McKaig's conduct in the past and of his purposes against himself in the future, and answer in your hearts whether the wealth and honors of the whole earth would have tempted you to embrace the prospect that lay before him as your own. You cannot desire to take this young life, to cut the briefly spun thread of his existence; you cannot wish to rear a gibbet against your sky with that elegant and accomplished form upon it, and that handsome and intelligent face shrouded for the grave. Such a doom cannot be a welcome thought to you. Identify yourselves, then, with him as the waves of sorrow and of peril rolled over his head, and you will reach forth your hands, your all-powerful hands, to bless and to save him.

And, gentlemen, now as Crawford Black descends into the town, the other party to this tragedy of blood, of broken hearts, and ruined lives, comes forth from his home at the other extremity of the place. It is claimed by the able attorney-general that he was slain contrary to the peace of the State of Maryland. If so, then he must have been at peace himself with her citizens, and in obedience to her laws. The picture of his peaceful departure from home has been vividly drawn. As a pure work of fancy it has high merits. The reality, however, was speedily shown when he met the prisoner. When he arose that morning he made a toilet of death and clothed himself with the implements of destruction. Three loaded revolvers, as the proof establishes, constituted his supply: one in the prepared pistol pocket on his hip, and two in their leather holsters belted around

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his waist. He sallied forth more heavily armed than any man who had walked the streets of Cumberland since the close of the sanguinary strife between the North and South. Instead of being a follower of peace, he was a moving machine of war. Instead of being a law-abiding citizen, his preparations were those of the desperate and deadly outlaw. And as he thus prepared himself I ask you to look at him in the light of his previous conduct toward the prisoner; in the light of his conduct as described by Long at the corner of the street, and of his menacing insult at Ferguson's saloon. You cannot mistake his fatal meaning. He was bent on bloody mischief. Black had uttered no threats against him; not one has been proven or attempted to be proven; he did not arm, therefore, for self-defense. He had not been apprised of any danger from the prisoner, except by the suggestions of his own guilty conscience. They told him, perhaps, of the necessity of prompt, determined, and aggressive action. We can only judge, however, by his acts, and they speak in clear and certain tones. When you once saw armies in these now smiling and happy valleys equip themselves with the cannon, the rifle, and the bayonet, and move forward toward the enemy, you knew that the sorrowful heaps of the slain and the wounded would soon cumber the ground and appeal piteously to heaven. So, too, when you behold a citizen in time of peace invade your streets with the most extensive and extraordinary preparations for taking human life, you at once fear and expect scenes of violence and calamity.

Am I answered that Black, too, was armed? Who ever had so much reason to be? May not a threatened life defend itself? He had one pistol; was not one third as powerful in conflict as his enemy; he had five balls ready for action. It is admitted by the prosecution that McKaig had twelve, and the testimony shows conclusively that he had eighteen. I have thus traced these parties, described their relations to each other and their disposition in regard to a collision until I have reached the time and place when and where they met. And here I again deplore your absence from the spot where a personal inspection would give you a more accurate knowledge of the transaction than any description at this distance. But concerning the leading facts, there can be no doubt. Black was on the south side of the street going west; McKaig was on the north side of the street going east; thus they were on the same street, but meeting with its whole width between them. Through Cumberland runs Will's Creek, and over it, on this street, is an elevated bridge. The evidence first disclosed the deceased as he was crossing that bridge with the prisoner in full view diagonally to his right on the other side of the street. There they first beheld each other that morning. Every step now assumes the most terrible importance and is charged with the responsibility of life and death. Who sought the banquet of blood? Who turned from his own pathway to interfere with the course of the other? Not an object was between them to obscure the view. The instant McKaig saw Black, he left his own sidewalk immediately at the

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east end of the bridge, where there was no crossing for pedestrians as at the intersections of streets, diverged obliquely to his right, on a line that would bring him to the sidewalk on which the prisoner stood about thirty feet in front of him. He walked rapidly in that direction. Why did he thus leave the even tenor of his way and bear suddenly down on Black? Why did he not pass on and let the prisoner do the same? Was that Providence, whose moral laws he had mocked and spurned, hovering over the scene and guiding him to his swift and awful doom? Did the fair and open opportunity tempt him to his own destruction in seeking the destruction of another? He could have let the prisoner alone; but a belief in the efficiency of his arsenal and a blind and fatal infatuation carried him with defiant confidence into a presence most dangerous to him on that morning—the presence of one who had just emerged from a night of sleepless frenzy over the injuries, the incurable and burning injuries, he had received from the man who now sought and approached him.

Is it pretended that this sudden movement by McKaig had no hostile meaning? Consider all that had passed between them before; consider all the provocations, the insults, and the threats, for actions often utter louder and deadlier threats than words. Consider all the past, and consider the warlike preparations of the deceased, and then determine whether he crossed that street without a purpose. But you are not left to the uncertain field of conjecture. The evidence makes his motives as plain as the light of the sun. The sinis-

ter movements of his hands make a perfect revelation of his designs. The cane was in his right hand as he passed over the bridge. Conner, a witness for the State, saw it as well as Davis, a witness for the defense. Conner turned away and saw no more; Davis saw it shifted from the right to the left hand by the deceased as he approached the prisoner. He saw that right hand, thus relieved of the cane, go back to the hip pocket and come in contact with a shining object—the polished handle of one of his pistols. Do I misstate the testimony? Would I dare do so even if restrained by no higher motive than the success of my cause? Nothing is more dangerous than to attempt a fraud upon a jury. You have heard every word here uttered, and you quickly resent the effort of counsel to mislead you. No attempt was made to contradict Davis. This you know. Others, professing to have seen the deceased while crossing the street, were called by the prosecution. Why was not one of them asked in regard to the change of the cane? Because it was known to be true. There was no hope of contradicting this crushing fact. And the motion of the hand for the pistol is equally proven. Is there anything unreasonable in all this? He had betrayed active hostility on former occasions. Why not now? He was fixed for the affray; he never could be readier; he did not know the condition of the prisoner's mind; he did not know that in the prisoner's breast had been boiling a fierce caldron for the last thirty-six intolerable hours; he did not know that he was himself at that moment the one

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supremely horrible thought in Black's feverish brain. He thought to confront him unawares, perhaps to brow-beat, degrade, and trample him under foot; perhaps to slay him where he stood. Colonel McKaig was a full man in years, large, commanding, and powerful in person. Crawford Black is slight, almost a boy in size as in age. There was the contemptuous confidence of Goliath on the one hand, and the just cause and unquailing heart of David on the other.

Gentlemen, I need not read from books to inform you what the prisoner's rights were when he saw his mortal foe approach him preparing with hasty strides to become his instant executioner. The law of self-defense is written in the heart of man more plainly and powerfully than on the pages of libraries. We here place our feet on its solid and eternal foundations. We build upon it a house of refuge for the prisoner which will withstand the fury of the storm and the malice of his enemies. He was not called upon to retreat. I spurn the doctrine of being driven to the wall or the ditch, that odious doctrine of degradation, danger, and death to the assaulted party. Every inch of ground on which he stood was his own. Who had the right to command him to yield it? The free air around him was his wall, and he who sought to drive him farther embraced the peril of his own lawlessness. Nor was the prisoner required to wait for the development of McKaig's designs upon him; he already had full notice. No shot or blow was necessary to make them clearer. He had the right to presume the bloody intentions of

McKaig from his previous as well as his present movements, and to act with promptitude. This is the law of the courts and is sustained by the authority of reason. In it lies all the safety bestowed by the great principles of self-defense. The whole panorama of the past flashed upon the mind of the prisoner at a glance and called upon him to defend life, honor, sister, and home without the delay of an instant. There was the destroyer, the insulter, and now the threatening assailant.

After carefully examining and comparing the testimony, I think any candid mind will agree to the proposition that, as the deceased stepped upon the sidewalk in front of the prisoner, they simultaneously drew their pistols. There are six witnesses who prove that McKaig had drawn when Black fired, and two of them were brought here, though not sworn, by the prosecution. The same number or more saw the pistol fall from his hand as the prisoner's first shot took effect. The cane fell from the other hand at the same time. As the evidence shows, the ball had taken effect in the side and had ranged near the spine, producing a shock to the nervous and muscular systems. The prisoner had been able to fire more quickly than his antagonist from the fact that his pistol, as you have seen here, is self-cocking.

It is contended, however, that the deceased had not drawn, because Dr. Smith and some others did not see the weapon in his hand nor see it fall to the ground. This is no proof at all; it is of a character which is always scouted from the presence of positive, affirmative

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evidence. What one man does not see is often seen by many others. Instances of this rule are very familiar in all the books. In this case, however, those witnesses who did not see the pistol in McKaig's hand were also blind to his cane. Yet no one disputes that he had the cane. That is conceded by all. They say they did not see the pistol drop at the curbstone when the first shot was fired; but they admit also that they did not see the cane fall, and yet it is not denied by the prosecution that the cane fell there. If this negative testimony disproves the pistol, it likewise disproves the existence of the cane, although the cane and its fall from the hand of the deceased the moment he received the prisoner's fire are accepted facts in this case. But in this connection why was Dr. Hummelshine not called by the prosecution? A strange and most lamentable feature in a criminal trial is here developed; it oppresses me with sorrow and apprehension. The suppression of evidence more extensive, systematic, and deliberate than I have ever known here commences. Dr. Hummelshine's name is on the back of the indictment as the witness on whose testimony, and on whose testimony alone, before the grand jury, it was found. He has been here in obedience to the process of the State from the opening day of this court to the present hour. Yet the prosecution did not place him on the stand. The learned prosecutors closed their case without submitting to you the evidence on which the indictment was procured. Such an unnatural proceeding, of course, fixed our attention on this witness. We placed him

on the witness stand before you, and then it was discovered why he had been kept back. He saw the pistol fall from the hand of McKaig at the curbstone into the gutter when Black first fired, thus proving conclusively that it was already drawn for action. These are the words of the original witness for the State. Was it not the clear, plain duty of the prosecutors to call him? Do they wish to obtain a verdict against this young man by hiding the truth from you? Do they wish to shed his blood by fraud? Would they encompass his destruction by low artifice? What explanation is possible here? Have they not denied him the evidence in their own hands which demonstrates his innocence? What is the object of a trial like this? Is it the mere display of skill on the part of counsel in obtaining a verdict from you without scruple as to the means? The stake here played for is a human life. Does the State of Maryland demand its sacrifice with only a partial knowledge on your part of the circumstances that have put it in jeopardy? I appeal to you. You represent this noble commonwealth to-day; you have been mocked and trifled with; you wanted the whole truth, and you had not received it when the prosecution closed and rested. They kept back a vital part and hoped that we would never find it. Have you a favorable regard for such a prosecution? Does it commend itself to you? Those who ask and demand a verdict against the life of a fellow-mortal should do so with clean hands and pure hearts. I aim to say nothing unkind of counsel, but not for all the land that

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lies between the swelling waves of the two oceans would I strive for the conviction of a human being, concealing at the same time within my own mind a fact which would justly acquit him if made known to the jury. Where also was young Clark, the boy brought here with so much pains by those who inspire the private branch of the prosecution? You did not hear him testify until we put him, another State's witness, on the stand. He saw McKaig's second pistol drop from the relaxed muscles of his hand when he fell. Out of the mouths of its own chosen supporters this prosecution stands condemned and Crawford Black stands justified. But more than all this, you were not allowed by the State to know that the deceased was armed at all, that he had a single weapon upon him. The learned counsel for the State ceased their examination without suffering a word or a hint of the truth on that point to reach your ears. Yet they were possessed of all knowledge in relation to it. They not only knew the evidence of Hummelshine as to the pistol at the curbstone of the south sidewalk, but that another was also found by his side when he was raised up in the middle of the street, and the third was yet remaining in the holster of his belt. He was carried into Dr. Smith's office, where his heavily armed condition was disclosed; yet the doctor was not called in chief, only in rebutting, when we had proven all the facts that were within his knowledge by others. Then the brother of the deceased, Mervin McKaig, appears next in this wholesale suppression of proof. He took his brother's belt and pistols and disappeared. Turney

picked up one in the street; a man whose name was unknown to the witness Hall picked up the other, and the holster yet contained the third. Why was Mervin McKaig made to remain silent in your presence from day to day throughout this entire trial?

This is without a parallel in the annals of criminal jurisprudence. I candidly and firmly believe that it is utterly without precedent in English or American history. The man who became the keeper of those weapons of death and who alone can tell their exact condition when the deceased fell, sits before you for two weeks and opens not his mouth. The presumptions are all against a proceeding like this. Evidence that is suppressed is presumed to be injurious to those who suppress it. This is an ancient maxim of the law as well as a proverb of wisdom. You have a right to know the condition of those pistols immediately after the fatal affray. Were they all loaded or had one barrel been discharged from the first or second one in the street? Is that the reason that Mervin McKaig made no explanation here? The defendant has the right to that presumption. The law gives it to him and you will not strive to withhold it. It is said that four shots were fired and that the prisoner fired them all. Possibly it is so, but it would have been much easier to decide if the arms of the deceased had undergone the proper inspection and the result been detailed to you. There is a dark and cloudy spot here; all is not plain and fair; there is something to conceal and it is done. Two pistols have been produced here in the rebutting

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testimony as those of McKaig. How are they identified? Dr. Smith simply says they look like those he saw. Mervin McKaig, then, as now, present, could have removed all doubt by a word, but that word he did not speak. This strange and astounding plan for the conviction of a man by the suppression of facts, however, does not stop even here. Will some one tell me why Turney has remained dumb in this case? He has been here all the time, subpœnaed by the State and doubtless ready to do his duty if permitted by those who brought him here. Several persons have testified that he was seen to take a pistol from the street after the deceased was removed. His name has been repeated over and over again in your hearing, and the fact that he himself was not brought forward to explain his own conduct and to inform you of the condition in which he found that firearm is damning and overwhelming to this prosecution. You should not move a single step toward a conviction. You should not even consider the testimony produced for that purpose. You should stop at the very threshold and say to the State: "You have withheld vital and important facts that were under your control; you have not dealt fairly with us or with the prisoner at the bar, and yet you ask us to imbrue our hands in his blood. We decline and utterly refuse to join in such practice, and we dismiss your proposition as an insult to our intelligence and sense of justice."

But it has been urged, and will be again, that after the first shot the prisoner might with safety have ceased

firing before he did. The perforated coat will be displayed in your sight, and a tongue of vengeance made to speak from every rent. But if Black had reason to believe that McKaig was seeking his life and was amply prepared to take it, at what point of the conflict was he to pause and say that the future was secure? He had seen the deceased come to meet him. He witnessed the shifting of the cane, the right hand in deadly preparation upon the pistol, and the act of drawing, all before he commenced his defense. Was anything more needed to convince him that the awful moment had arrived when one or the other must fall; when the fight was to be to the death? And with such bloody hostility proclaimed by the deceased the prisoner was not required to cease the strife that had been forced upon him until he knew that his adversary was disabled and rendered incapable of further attack. Such is the written law of the land as administered in its courts of justice. I announce this in the hearing of their Honors on the bench as one of the great cardinal doctrines of self-defense. Without it, indeed, there would be no self-defense. It would be a delusion and a snare. When, therefore, McKaig, as described by George Garner, sprang into the street after the first fire and put his hand behind as if to draw another weapon, Black had no reason to believe that his life was yet safe. He could not know that the deceased was hit at all. He still stood and endeavored to continue the fight with the abundant means that were upon him. There was no security or peace for the prisoner until McKaig

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fell. If McKaig moved from Black, the evidence shows that it was only for the purpose of obtaining time and opportunity to draw a second pistol. Under these circumstances, was the prisoner to cease firing and allow the deceased to turn and fire upon him when he got ready? The deceased, in fact, did turn, and fell with his face toward the prisoner and with the pistol, afterwards found by his side, in his hand. His arm had become nerveless, and it was too late for him to execute the last purpose of his life. And, as he fell, the last scene in a long drama of secret sin and open shame, of private grief and public ruin, was closed by the sudden pall of death. But as that stalwart form lay there under the early sun of that morning, and as the liberated spirit ascended to the great fountain of life on high, what accusing word of guilt could it bear to the dread presence of a righteous God against Crawford Black? Wherein is his offense against the laws of man or the majesty of heaven? Would you have had him avoid the encounter that was sought; abandon his right to the highway and turn and flee from the face of his enemy? The laws, human and divine, make no such demand, nor does the history of your State. The fame of Maryland is glorious and full of honor in peace and in war. She is a child of the Revolution, and its baptism of fire and blood rested upon her head. Her sons are reputed brave, and her daughters beautiful and virtuous, wherever her name is spoken. The Maryland line met the scarlet uniform and the glittering steel of England from the darker hours of Bunker Hill to the triumphant glory

of Yorktown in behalf of personal as well as national independence. With what pride you can point to that long and brilliant though bloody record; it has extorted terms of eulogy from the pens of even reluctant historians and commanded the admiration of posterity. Nor has her soil in modern times bred the spirit of cowardice. She has not infused it into the veins of her children, and no dastard's example is in her escutcheon to tempt the prisoner to flight and dishonor. He but stood his ground as his fathers did before him against the armed destroyer of life and the ravager of peaceful homes.

At this stage, however, of this dark and melancholy affair the bitter cry, wrung at last from the prisoner's heart, is caught up by the prosecution and urged against him. Yes, when he saw McKaig fall, his lips broke forth for one brief utterance as if touched by the spirit of retributive justice. He thought no more of his own danger; he was unconscious of the peril of his own life as the image of his poor sister, torn from her high estate of virtue and then spurned and trampled upon, rose before his inflamed vision. It is said that the dying have a swift and far-reaching glance of the realms and records of time, but not more so than this prisoner at that supreme instant had of the pure-faced playmate of his childhood, now the prey, the sport, and the scorn of human perfidy; once wandering by his side in the early dawn of their lives, then expanding into womanhood like a 'flower in flushing, when blighting was nearest,' then plucked by the ruthless hand of the

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seducer from the garden of honor and flung away in a little while, withered and dead. He beheld, too, the sweet, bright home of other days when his loving mother smiled in her narrow but happy and untainted domestic circle; when her days and nights were not filled with weeping and her face was not furrowed with tears; when her voice was not lifted up with lamentations more bitter than "the wail above the dead"; when his father's brow was not bent before the gaze of men because the deceased had covered it with the mildew of shame; when he himself looked forth upon the enticing career of manhood with a proud, high heart and an unblemished name. All this came as a flash upon memory, illuminating all the dear objects of his existence and then giving way as suddenly to the worse than midnight darkness of the present hour. In the twinkling of an eye all was changed, and home, sister, father, mother, and his own youthful hopes and pride all lay together before his eyes in a heap of ruin and misery. The imprisoned pangs of his soul burst forth and he spoke the fulfillment of human and divine justice. He announced the execution of the decrees of God and man; he proclaimed the fate of the man who had ruined his sister, and pursued her father as a felon because he resented her destruction. Though his own life had been assailed, though he had justly stood upon his defense, yet his tongue gave the true interpretation of the reason that his adversary had fallen. "The wages of sin is death," and they had been earned and were now paid. Am I told that there is no law by which he who rifles a home

of its most precious treasures shall be slain? Am I told that the prisoner announced a sentiment for which he should die when he declared his sister's ruin to be the cause of that bloody scene? With magnanimity he waived all considerations of himself and thought only of those dearer to him than life. For this shall he sup the horrors of a conviction at your hands? What more did he do, even if no principle of self-defense shielded him, than others have done in every age and in every clime? The Christian and the pagan tribes of men alike give him their examples and their support. Examine all that is left, all that can be found in every distinctive period of history since the great flood of mankind commenced to flow from a single family in the morning of time, and, with the exception of now and then—a licentious reign like that of Charles II of England, where the object was to cheapen female virtue and license the unbridled lust of the court and its infamous favorites—you can find no precedent for the punishment of the prisoner, no authority to lay your hands upon the defender of your firesides and the protector of your homes against the common enemy of the human race. And I, here in this solemn presence, with the dread issues of life and death intrusted to my care, declare as far as my voice will reach, that he who invades the sanctuary of a home, imposes the impurity of his debased and brutal desires upon the presence of innocence, breaks the charm and halo of virtue, and defiles the altar of domestic life, forfeits his right of abode in the midst of human society, and deserves to die. The

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husband's hand is thrice armed for his destruction, the father rises against him in paternal majesty, and the brother may scourge him from the face of the earth wherever he is found. His offense is beyond the reach of pardon, and appeals to heaven and earth combined for redress. It is rank with crime and invites the lash of chastisement from every virtuous quarter. Nor is this doctrine without that same powerful sanction of which the mighty common law of England was born. That vast and splendid structure is simply the offspring of the customs and usages of the people of the British Empire. Its broad and enduring foundations rest upon the long-continued habits and practices of an enlightened race and nation. It springs from the consent and approval of centuries. Has not the principle for which I contend the same great support? Is it not a common law within itself, the eldest born of all laws, antedating the days of Edward the Confessor and Alfred the Lawgiver, as widespread as the light of history, and as universal as the nations of the earth? Has it not the sanction of Jehovah Himself in the case I cited from the pages of sacred history? Did it not blaze forth from the heights of Sinai to the uttermost boundaries of space and time? The death of the seducer and the adulterer was decreed in the high courts of heaven when the ages were in their infancy, and the decision has been followed wherever the marriage couch has been spread and the family tie has been woven. The usages of civilization; the uniform conduct of men at the same moment of time and in different and distant parts of the globe; the

rulings of judicial tribunals; and, above all, the unvarying, unbroken chain of verdicts rendered by juries since the beginning of human jurisprudence have all combined to establish and consolidate the fatal but just decree. Modern ages have lent their sanction to the customs of antiquity. The span of our own lives in these latter days is crowded with illustrations of the great truth which I lay before you. American history has its faithful story to tell, as well as the annals of the family in Israel, and of every civilized coast and tribe from that hour until the present day.

A quarter of a century ago there occurred in Philadelphia, the city of meek and peaceful antecedents, a full and perfect test of this common law of homicide where a seducer is slain. The Singleton-Mercer case rang out upon the ear of the world as a note of safety to the young and confiding members of virtuous homes and of warning to those polluted and polluting wretches who look upon woman in the same debasing spirit with which Satan, prowling amidst the splendors and the innocence of paradise, looked and leered with lustful eyes upon the unsuspecting and angelic movements of Eve. No ingredient of self-defense was there. The bald and naked issue was presented. The arm of the brother was made naked and his right hand red in the defense of his sister's honor, and a jury of the vicinage and a jury of the world acquitted him with universal acclaim. The District of Columbia has the case of Jarboe with the same unerring and philosophic result. California spoke within the last two years; and the great

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central State of Ohio makes her recent contribution in the case of McQuigg and his sister. I might multiply until I would degenerate into the simple narrator of a catalogue of events and names well known to you all. And when we mount up to the unclouded regions of impartial reason and natural right, why should not this rule against vice and on the side of virtue prevail? What mitigation can be offered for the conduct of the most evil monster produced from the lowest and most depraved elements of our fallen humanity? Can his crime be lessened or brightened by comparison with any other that darkens our brief pilgrimage beneath the stars? If the door or window of your house is broken for an article of the meanest value, you may take the life of the burglar. It is only your house and its material contents that are in danger, but so tender is the regard of the written law for property that you may arise and slay to defend it. Do your dwellings contain nothing more valuable and sacred than silver and gold? Are there not gems this moment in the circle of your households whose luster you would not have tarnished or their presence torn away for all the glittering treasures of the Golcondas, the Californias, and the Perus? Wives, daughters, and sisters are there, and the loss of one to the embrace of dishonor would rend your hearts in twain and plant a poison in the cup of life which would never cease to rankle until the grave gave you peace. Yet it is contended that for the criminal monster who might thus destroy all for which you live, and make life itself one long-continued and

unbearable anguish, there is no personal punishment, no pain for him to suffer; that he may walk your streets in peace and security, and spend his days in ease and comfort while his victim, pale and wasted with sorrow, is sinking into an untimely grave in some lonesome and secluded spot where she lies hidden from the unpitying eyes and unfeeling scoffs of the world. His crime is a thousandfold blacker than murder, yet there are no prisons or scaffolds for him. For the betrayed and ruined woman there is nothing left of life except the pain of living. The joy of existence never comes again. When we see the autumn leaf falling to the ground, and the white shroud of winter spread over the face of the fields, we are blest with the certain hope that the soft air of spring will after a little come back to us and renew in our midst the splendors of this beautiful world; that the fresh, green sward, adorned with flowers, will again spread at our feet, and the deep foliage of the forest will weave its bright canopy over our heads. But to the soul that has loved, trusted, and lost, there comes no second spring. The solemn sky of autumn and the chilling winds of winter alone remain to her. No glad and golden summer awaits her in the future. A scorched and barren desert without verdure, without trees, or plant, or blossom, or shrub, or one single cooling fountain at which to rest in all the desolate pilgrimage, lies before her tired and faltering footsteps. She makes the rest of her journey, too, alone. The leper's taint is upon her in the eyes of the world, and friends fall off and avert their faces. And with

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such a spectacle as this before you, are you willing to say that the man who thus curses the entire existence of one whose sole offense has been her blind, unreasoning devotion to him should pass unscathed and unwhipped of justice? Such a decision would spurn and trample under your feet the holiest and tenderest interests, affections, and loves of humanity, and would blaspheme all the attributes of a just and righteous God. Does some one, however, who is careful of the life of the destroyer, profane this subject with a suggestion of damages as a measure of legal redress? The bare thought stifles an elevated nature with feelings of loathing and disgust. Who can estimate the value of family honor? Who shall lay a price on domestic happiness? Who shall remunerate you for the stolen and defiled members of your household? As well might you attempt to fix the value of a lost and ruined soul in hell. 'What will a man not give for his own soul?' And will he not give the same, or even a higher ransom if need be, for the salvation of wife, mother, daughter, sister? Without them in their purity the regions of time and earth would be filled with fiery tortures, and the condition of the fallen spirits in eternity could be no worse. Can you pay the husband for his wife, the son for his mother, the brother for his sister, and the father for his daughter? Can you make atonement to the heartbroken woman herself for violated vows and wanton perfidy? Can she or any of those that love her be redeemed to their original estate by the assessment of damages? A division of property

between the social outlaw and his prey may be just, but as a mode of punishment it is vain and void of meaning. Who, also, would have such gain? If a judgment was taken in favor of the husband or father, in whose behalf an action lies, what a revolting acquisition to his fortune it would be! In what way would he expend it? If the husband invests it in "ships that go down to the sea," he makes his ventures into foreign lands and distant waters upon the wages rendered to him by a jury for his wife's infamy. He traffics upon the honor of her whose dear and precious head once lay in its sweet sleep of fidelity upon his confiding heart. If his argosies come home from successful voyages, they are freighted with gains founded upon the dishonor of his bed, the debasement of his name, and the overthrow of all his fireside gods. His bills of lading stare at him as the reward of his submission to the lowest depths of degradation ever fathomed by the most abject spirits of the human race. The articles of merchandise, which he unpacks and offers in exchange at his counter, would salute him with the taint of moral death and remind him perpetually of his hideous bereavement. The ghost of his murdered peace would arise and confront him wherever he turned.

If the father accepted a pecuniary award for the shame of his daughter, it would bitterly mock him in all the after years. In what channel of trade would he embark with the proceeds? If he bartered them for lands, his growing meadows, his waving corn, his ripening wheat, and the flocks and herds upon his hills would seem to

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be flourishing over the dishonored tomb of his lost and undone child. His soul would sicken at the sight of his own prosperity springing from such a source. He would turn away, and though filled with the peaceful precepts of our holy religion, he would invoke the death of the seducer and pray for the blessings of heaven to rest upon the hand that smites him in his career of wickedness. This is the universal law of the human heart, and the prisoner at the bar simply proclaimed it when he slew the deceased. Such is the meaning of his exclamation when tried by all the experience, instincts, and reason of mankind.

And now, gentlemen, my labors are drawing to a close. I have endeavored to treat plainly and fairly all the material aspects of this painful and most important case. If there is guilt in the conduct of the prisoner, I have not found it. Soon you will discharge the most momentous duty of your lives. In a few hours more you will determine whether Crawford Black shall live or die. There is no intermediate point for one like him. If he is guilty at all, he tells me to say to you that he anxiously and earnestly desires the extreme and fatal penalty of the law. I join in that solemn and awful request. That untainted and unsullied spirit must not herd with hardened felons, or taste the fearful degradation of the penitentiary. The odious garb of the prison was not made for such a form as his. Far rather would I bid him farewell forever on the scaffold than to know that he lived with the stain of infamy upon him. But I will not indulge in such gloomy fore-

bodings. I believe that you approach a cheerful and pleasing task. I believe that your faces will be radiant with happiness as you restore the prisoner to life, liberty, and the embrace of his weeping parents. They reach forth their eager arms to carry him home. They have been lonely, very lonely, there for many months. This mother has wept like Rachel for her children because they were not. One has been taken, the spoiler's prey; you will not take the other also. As the aged father in Israel clung to Benjamin when Joseph was gone, so do these afflicted parents yearn for their good and dutiful son, and long to clasp him, free and unharmed, to their bereaved breasts. In full confidence that by your verdict you will grant this blessed privilege, reunite this broken family, and solace their wounded hearts, as far as it may be done by human power, I surrender all, all into your hands. Accept my thanks, each one of you, for your kind and patient attention; and allow me to tender you my best wishes for your future welfare and happiness.

The defendant was promptly acquitted by the jury.

The Trial of Susan B. Anthony

AT the national election which took place in November, 1872, Susan B. Anthony offered her vote to the inspectors of election, insisting that she had a right to vote—a right secured to her as a citizen by the Fourteenth Amendment to the Constitution of the United States. The vote was received and deposited in the ballot box. Later Miss Anthony was indicted for the offense of “knowingly voting without having a lawful right to vote,” the indictment being based on the nineteenth section of the Act of Congress of May 30, 1870. The trial took place at Canandaigua before the United States Circuit Court for the Northern District of New York in June, 1873. The defense of Miss Anthony was: first, that she was legally entitled to vote; second, that if she were not so entitled but voted in good faith in the belief that it was her right, she was guilty of no crime; third, that she did vote in such good faith and with such belief. At the conclusion of the evidence and the arguments of counsel the Court instructed the jury to render a verdict of guilty and refused to submit, at the request of defendant’s counsel, any question to the jury and refused to allow the clerk to ask the jurors whether they assented to the verdict which the Court had directed to be entered.

Classics of the Bar

The clerk entered the verdict of guilty as directed by the Court. The Court then asked the prisoner if she had anything to say why sentence should not be pronounced. The response of Miss Anthony, who was repeatedly interrupted by the Court, constitutes a very interesting chapter of forensic literature.

The Colloquy

JUDGE HUNT (ordering the defendant to stand up): Has the prisoner anything to say why sentence should not be pronounced?

Miss Anthony: Yes, your Honor, I have many things to say; for in your ordered verdict of guilty, you have trampled under foot every vital principle of our government. My natural rights, my civil rights, my political rights, my judicial rights, are all alike ignored. Robbed of the fundamental privilege of citizenship, I am degraded from the status of a citizen to that of a subject; and not only myself individually, but all of my sex are, by your Honor's verdict, doomed to political subjection under this so-called form of government.

Judge Hunt: The Court cannot listen to a rehearsal of arguments the prisoner's counsel has already consumed three hours in presenting.

Miss Anthony: May it please your Honor, I am not arguing the question, but simply stating the reasons why sentence cannot, in justice, be pronounced against me. Your denial of my citizen's right to vote is the

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denial of my right of consent as one of the governed, the denial of my right of representation as one of the taxed, the denial of my right to a trial by a jury of my peers as an offender against the law; therefore, the denial of my sacred rights to life, liberty, property, and——

Judge Hunt: The Court cannot allow the prisoner to go on.

Miss Anthony: But your Honor will not deny me this one and only poor privilege of protest against this high-handed outrage upon my citizen's rights. May it please the Court to remember that since the day of my arrest last November, this is the first time that either myself or any person of my disfranchised class has been allowed a word of defense before judge or jury——

Judge Hunt: The prisoner must sit down—the Court cannot allow it.

Miss Anthony: All of my prosecutors, from the Eighth Ward corner-grocery politician, who entered the complaint, to the United States marshal, commissioner, district attorney, district judge, your Honor on the bench, not one is my peer, but each and all are my political sovereigns; and had your Honor submitted my case to the jury, as was clearly your duty, even then I should have had just cause of protest, for not one of those men was my peer; but, native or foreign born, white or black, rich or poor, educated or ignorant, awake or asleep, sober or drunk, each and every man of them was my political superior; hence, in no sense, my peer. Even, under such circumstances, a commoner of England, tried before a jury of lords, would

have far less cause to complain than should I, a woman, tried before a jury of men. Even my counsel, the Honorable Henry R. Selden, who has argued my cause so ably, so earnestly, so unanswerably before your Honor, is my political sovereign. Precisely as no disfranchised person is entitled to sit upon a jury, and no woman is entitled to the franchise, so none but a regularly admitted lawyer is allowed to practice in the courts, and no woman can gain admission to the bar; hence, jury, judge, counsel, must all be of the superior class.

Judge Hunt: The Court must insist—the prisoner has been tried according to the established forms of law.

Miss Anthony: Yes, your Honor, but by forms of law all made by men, interpreted by men, administered by men, in favor of men, and against women; and hence your Honor's ordered verdict of guilty against a United States citizen for the exercise of "*that citizen's right to vote*," simply because that citizen was a woman and not a man. But yesterday the same man-made forms of law declared it a crime punishable with a thousand dollar fine and six months' imprisonment for you, or me, or any of us to give a cup of cold water, a crust of bread, or a night's shelter to a panting fugitive as he was tracking his way to Canada. And every man or woman in whose veins coursed a drop of human sympathy violated that wicked law, reckless of consequences, and was justified in so doing. As then the slaves who got their freedom had to take it over, or under, or through the unjust forms of law, precisely so now must women, to get their right to a voice in this government, take it;

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and I have taken mine, and mean to take it at every possible opportunity.

Judge Hunt: The Court orders the prisoner to sit down. The Court will not allow another word.

Miss Anthony: When I was brought before your Honor for trial, I hoped for a broad and liberal interpretation of the Constitution and its recent amendments, that should declare all United States citizens under its protecting ægis—that should declare equality of rights the national guarantee to all persons born or naturalized in the United States. But failing to get this justice—failing, even, to get a trial by a jury *not* of my peers—I ask not leniency at your hands, but rather the full rigors of the law.

Judge Hunt: The Court must insist—— (Here the prisoner sat down.)

Judge Hunt: The prisoner will stand up. (Here Miss Anthony arose.) The sentence of the Court is that you pay a fine of one hundred dollars and the costs of the prosecution.

Miss Anthony: May it please your Honor, I shall never pay a dollar of your unjust penalty. All the stock in trade I possess is a ten-thousand-dollar debt, incurred by publishing my paper—*The Revolution*—four years ago, the sole object of which was to educate all women to do precisely as I have done—rebel against your man-made, unjust, unconstitutional forms of law, that tax, fine, imprison, and hang women, while they deny them the right of representation in the government; and I shall work on with might and main to pay

every dollar of that honest debt, but not a penny shall go to this unjust claim. And I shall earnestly and persistently continue to urge all women to the practical recognition of the old revolutionary maxim, that "Resistance to tyranny is obedience to God."

THE END

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